

P.O. Box 995  
1550 Gadsden Street  
Columbia, SC 29202  
dew.sc.gov



Henry McMaster  
Governor

G. Daniel Ellzey  
Executive Director

---

## STATE INSTRUCTION NUMBER 16-17, Change 1

**To:** Local Workforce Area Signatory Officials  
Local Workforce Development Board Chairs  
Local Workforce Area Administrators

**Subject:** Sanctions for Violations of Nondiscrimination and Equal Opportunity Provisions of WIOA

**Issuance Date:** May 17, 2019

**Effective Date:** Immediately

**Purpose:** To outline additional possible sanctions that may be imposed for violation of the nondiscrimination and equal opportunity provisions of the Workforce Innovation and Opportunity Act (WIOA). No other changes have been made to the policy and procedures issued in State Instruction 16-17.

**Background:** 29 CFR 38.54(c)(2)(vii) requires the Governor (or designee) of each state to establish procedures for obtaining prompt corrective action or, as necessary, applying sanctions when noncompliance with the non-discrimination and Equal Opportunity (EO) provisions of WIOA is found.

**Policy:** When the SC Department of Employment and Workforce (DEW), as the state administrative agency for WIOA, finds that a violation has occurred, the following steps will be taken to accomplish corrective action:

1. **Initial Determination:** The State EO Officer will issue an Initial Determination containing the following:
  - a) specific findings underlying the finding of noncompliance;
  - b) the corrective or remedial action that the State EO Officer is proposing;
  - c) the time by which the respondent must complete the corrective or remedial action; and
  - d) a statement offering the opportunity to engage in voluntary compliance negotiations.
2. **Written Assurance or Conciliation Agreement:** A written assurance may be issued when the respondent has, within 30 calendar days after receipt of the Initial Determination identifying the noncompliance, taken all corrective actions to remedy the noncompliance. If the respondent disagrees with the findings or proposed corrective or remedial action in the Initial Determination, the respondent must respond to the Initial Determination in writing within 30 calendar days explaining in detail its disagreement and/or the items over which it desires to

negotiate. The State EO Officer will carefully review the response and contact the respondent to begin negotiation regarding a Conciliation Agreement that resolves the matter on mutually agreeable terms. The total time allotted to secure voluntary compliance must not exceed 60 days.

3. *Final Determination:* In the event voluntary compliance cannot be secured through steps (1) and (2) above, or if respondent breaches the agreed-upon Conciliation Agreement, the State EO Officer will issue a Final Determination containing the following:

- a) a statement of the efforts made to achieve voluntary compliance and a statement that those efforts have been unsuccessful;
- b) a statement of those matters upon which the respondent and DEW continue to disagree;
- c) a list of any modifications to the Initial Determination;
- d) a description of the corrective or remedial actions that the respondent must take to come into compliance; and
- e) notice that if the respondent fails to come into compliance within 10 calendar days of the date on which it receives the Final Determination, DEW may take the actions listed in (4) below.

4. *Sanctions:* DEW considers sanctions only if the respondent has failed to come into compliance within 10 calendar days of the date on which it received a Final Determination. If sanctions are necessary, the precise nature of the sanction will be determined by the egregiousness and pervasiveness of the violation(s). Sanctions that may be imposed include, but are not limited to:

- a) disallowance of selected costs (2 CFR § 200.338(b));
- b) temporary withholding of cash payments pending correction of the deficiency (2 CFR § 200.338(a));
- c) termination of future funding (2 CFR § 200.338(e)); and
- d) other remedies allowed by law (2 CFR § 200.338(f)).

**Action:** Local Workforce Development Boards should broadly distribute this policy to ensure staff is familiar with its content and requirements.

**Inquiries:** Questions may be directed to Policies and Procedures at [polnpro@dew.sc.gov](mailto:polnpro@dew.sc.gov).



Susan M. Boone, Chief Legal Officer  
SC Department of Employment and Workforce