

MT SWIB

STATE WORKFORCE INNOVATION BOARD

1 Division: State Workforce Innovation Board (SWIB)
2 Last Revised: N/A
3 Procedure No.: 01-23

Sanctions Process

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6 **Background:** Montana Department of Labor & Industry (MDLI) must conduct regular oversight and
7 monitoring of WIOA Title I, State Displaced Homemaker, and Senior Community Service Employment (SCSEP)
8 programs to ensure compliance with WIOA provisions, laws, and regulations. The monitoring and audits
9 process also provides an opportunity to strengthen and continuously improve workforce development programs
10 and processes. If the Workforce Services Division (WSD) Monitoring Unit finds fiscal or programmatic
11 noncompliance, monitoring staff will recommend corrective action to secure prompt compliance. Corrective
12 action is supported in two ways: the monitoring and fiscal staff's technical assistance and the service provider's
13 timely follow-through. Montana's State Workforce Innovation Board (SWIB) bears the authority to determine if
14 service provider deficiencies warrant sanctions and impose them.

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16 **Scope:** The sanction processes apply to all service providers operating WIOA Title I, State Displaced
17 Homemaker, and Senior Community Service Employment (SCSEP) programs; and the WSD Monitoring Unit
18 Supervisor, WIOA Fiscal Officer, WSD Data and Operations Bureau Chief, WSD Administrator, and the SWIB
19 Director and Chairperson.

Written Notices

WSD Monitoring Unit Supervisor

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24 After providing technical assistance to a service provider and significant issues remain unresolved for thirty (30)
25 calendar days, WSD's monitoring unit supervisor will brief the WSD administrator in writing.

WSD Administrator

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28 Upon determining that the service provider has not taken corrective action, the WSD administrator will:

- 29 • Notify the SWIB director and chairperson in writing of the service provider's failure to comply.
 - 30 ○ In cases of known or suspected incidents of fraud, malfeasance, misfeasance, nonfeasance,
 - 31 misapplication of funds, gross mismanagement, or other criminal activities in federally funded
 - 32 programs, MDLI's WSD will also report all known information on the Federal Incident Report.
- 33 • Provide the SWIB director and chairperson with following information:
 - 34 ○ Name(s) and relevant contact information, including but not limited to the executive director
 - 35 and/or signatory official.
 - 36 ○ General nature of the sanctionable act(s);
 - 37 ○ Severity of the sanctionable act(s);
 - 38 ○ Frequency of the sanctionable act(s);

- 39 ○ Cause of the sanctionable act(s);
- 40 ○ History of the service provider's ability to administer a program;
- 41 ○ Copies of Performance Improvement Plans or other monitoring documentation;
- 42 ○ Recommended remedies and/or conditions needed to remove the sanction, if applicable;
- 43 ○ Recommended time for completing the remedy or meeting conditions; and
- 44 ○ Any other criteria that may be relevant.

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46 SWIB Chairperson

- 47 ● The SWIB chairperson will convene the board's executive committee to consider sanction(s) based on
- 48 the information provided by WSD.
- 49 ● Sanctions will be imposed based on:
 - 50 ○ An evaluation of the totality of the circumstances surrounding the sanctionable act(s):
 - 51 ■ Nature and severity of the sanctionable act(s)
 - 52 ■ Frequency of the sanctionable act(s)
 - 53 ■ Cause of the sanctionable act(s) (e.g., neglect, intent)
 - 54 ■ History of the provider's ability to administer a program (e.g., occurrences of
 - 55 sanctionable acts, resolution of sanctions and sanctionable acts, efforts to prevent the
 - 56 occurrence of the sanctionable acts, and oversight results)
 - 57 ○ Other criteria not listed that may be deemed appropriate (e.g., justification for subrecipient's
 - 58 failure to provide necessary information or take required action, or demonstrations of
 - 59 willingness by the subrecipient to cooperate in the sanction process)
- 60 ● If the committee determines that sanction(s) are appropriate, the chairperson will send a Letter of
- 61 Sanction by registered mail to the service provider's executive director and/or signatory official and will
- 62 email a copy to the WSD Administrator. The letter should include, but not be limited to:
 - 63 ○ The nature of the sanction;
 - 64 ○ Reason the sanction is being imposed;
 - 65 ○ Remedies and/or conditions needed to remove the sanction, if applicable;
 - 66 ○ Time for completing the remedy or meeting conditions; and
 - 67 ○ Method for appealing the sanction.
- 68 ● Failure to comply with the terms of the Letter of Sanction can result in additional sanctions. If a provider
- 69 chooses to appeal a Letter of Sanction, the provider may do so according to the appeals procedure
- 70 described in the Appeals section below.

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72 Letter of Resolution

73 Once the WSD Administrator determines that the remedies are complete or conditions have been met, the

74 chairperson will send a Letter of Resolution to the service provider's executive director and/or signatory official

75 and email a copy to the WSD administrator. Timelines for completion of each step are determined by the type of

76 sanctionable act and appropriate time necessary for resolution.

77 Appeals

78 A service provider that receives a Letter of Sanction may file an appeal of the sanction(s) imposed, but not the

79 initial monitoring finding of non-compliance. The written appeal must be received within thirty (30) calendar

80 days from the letter of sanction's date. If the 30th day falls on a weekend or holiday, the deadline will extend to

81 the next business day. Appeals must be submitted by registered mail and clearly marked on the envelope as

82 "dated material." The letter should be addressed to:

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84 Workforce Services Division Administrator and the State Workforce Innovation Board

85 Montana Department of Labor & Industry

86 PO Box 1728

87 Helena, MT 59604

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89 The SWIB chairperson will designate the full board to hear the appeal at the next regular board meeting. The
90 board will hear the appeal and issue a written decision within 60 calendar days.

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92 Administrative Requirements:

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- 94 • WSD's monitoring unit and administrative staff will ensure that the SWIB has the information necessary
95 to make a thorough assessment and decision about a sanction, as well as the information necessary to
96 inform service provider in writing.
- 97 • WSD administrative staff will coordinate a service provider appeal.

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99 References:

- 100 • [20 CFR 683.400 Subpart D Oversight and Resolution of Findings](#)
- 101 • [2 CFR 200 Uniform Administrative Requirements](#)
- 102 • [29 CFR 37 Nondiscrimination and Equal Opportunity](#)
- 103 • [WIOA Section 181 Requirements and Restrictions](#)
- 104 • [WIOA Section 184 Fiscal Controls and Sanctions](#)
- 105 • [WIOA Section 188 Nondiscrimination](#)
- 106 • [SWIB By-laws](#)

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