

WORKFORCE SYSTEM POLICY (WSP) No. __-PY2015

TO: PENNSYLVANIA WORKFORCE DEVELOPMENT BOARD
BUREAU OF WORKFORCE DEVELOPMENT ADMINISTRATION
BUREAU OF WORKFORCE PARTNERSHIP AND OPERATIONS
CENTER FOR WORKFORCE INFORMATION AND ANALYSIS
LOCAL ELECTED OFFICIALS
LOCAL WORKFORCE DEVELOPMENT BOARD CHAIRS AND EXECUTIVE DIRECTORS
PA CAREERLINK® OPERATORS AND ONE-STOP PARTNERS

FROM: Eileen Cipriani
Deputy Secretary for Workforce Development

SUBJECT: Sanctions — Initial Implementation of Workforce Innovation and Opportunity Act (WIOA)

- I. **Purpose.** To establish and implement the Department of Labor & Industry’s sanctions policy and process.
- II. **Background.** The purpose of the sanctions process is to ensure accountability of subrecipients (i.e., partners, contracted providers, intermediaries) in meeting the needs of the local workforce development system; to ensure and/or improve performance in achieving outcome measures; to ensure compliance with applicable federal and state laws, regulations, policies, and terms and conditions of applicable awards, contracts, etc.; to ensure adequate returns on Pennsylvania’s workforce investments; and to support the commonwealth in achieving its goals. To accomplish these responsibilities, as well as satisfying its oversight role, if it is determined that a “sanctionable act” has occurred, or if a subrecipient is determined to be “at-risk” or “high-risk” for noncompliance or nonperformance, the Department may impose penalties or conditions to remedy or to mitigate risk of a sanctionable act occurrence.

Note: See the attached appendices for references and definitions.

III. **Processes.**

- A. **Risk assessment process.** As applicable, the Department will assess the subrecipient’s risk of noncompliance and nonperformance during the three (3) phases of the applicable award lifecycle (i.e., pre-award, award, and post-award), and will render a determination as to a subrecipient’s potential for such failures and whether risk designation is appropriate. If a subrecipient is determined to be *at-risk* or *high-risk*, the Department will notify the local board of the designated risk level status; the remedial action(s) required and/or additional conditions assessed; and when the risk designation is removed or altered. Risk assessment methodologies have been incorporated into the Department’s oversight processes and are a required element of local subrecipient oversight responsibilities per *Workforce System Policy No. 07-2015 – Oversight*.
- B. **Sanction process.** As applicable, the Department will render a determination as to whether or not a sanctionable act has occurred. If a sanctionable act has occurred and a sanction will be imposed, the Department will determine the “sanction status level” assignment; the remedial action(s) required and/or penalty assessed; and when such violation is resolved or action/penalty is completed.
- C. **Sub-processes.** Processes incorporated into/pertaining to risk assessment and sanctions (e.g., notification, resolution, technical assistance, and appeals) are described herein.

Note: Sanctionable acts and risk designations may occur during or after the program, grant, fiscal, contract or calendar year. Subrecipients must report any identified sanctionable act(s) to the Department within a timely manner (i.e., not to exceed 30 calendar days from the date in which the violation was identified). The Department will report to US Department of Labor (USDOL), as deemed appropriate, any WIOA subrecipient placed into a *high-risk sanction status level*. The Department will communicate with the subrecipient and/or local board and chief elected official(s) to resolve any errors and/or to alleviate other identified issues to the extent possible, and may terminate or amend any risk assessment or sanction processes as deemed appropriate and in accordance with applicable federal or state laws or regulations.

IV. Determinations.

A. Risk determination. The Department may assess the subrecipient's risk of noncompliance and nonperformance during the three (3) phases of the applicable award lifecycle (i.e., pre-award, award, and post-award) and render a determination as to a subrecipient's potential for such failures when warranted. If a subrecipient is determined to be *at-risk* or *high-risk*, the Department will follow the risk assessment process described herein.

- Determination. The Department may render a determination regarding any risk designation. If a *high-risk* designation is assigned or if any additional conditions or remedial actions will be imposed, the Department will provide notice to the local board and chief elected official(s) with information regarding such determination.
- Notice of intent. The Department will issue a written notice to the local board/subrecipient (as applicable) upon any designation of *high risk* or regarding any remedial actions or conditions that may be applied to mitigate the subrecipient's risk of noncompliance or nonperformance. Such notice should be sent as early as reasonably possible. Notices of intent applicable to local boards will be sent to the appropriate local board chairperson and chief elected official(s) and should include the following information:
 - The nature of the additional conditions or remedial actions;
 - The justification for the additional conditions or remedial actions;
 - The actions needed to remove the conditions or actions, and/or the risk status designation;
 - Timeline for completing the additional conditions or remedial actions; and
 - Method for appealing the management decision.

B. Sanction determination. The Department will determine whether a sanctionable act has occurred. If a sanctionable act has occurred the Department will follow the sanction process described herein.

- Determination. The Department will render a determination regarding any sanctionable act(s). If a sanctionable act has occurred and a sanction will be imposed, the Department will provide notice to the local board/subrecipient (as applicable) with information regarding such determination.
- Notice of intent. The Department will issue a written notice to the local board/subrecipient (as applicable) regarding any identified sanctionable act(s) and/or any sanction to be imposed. Such notice should be sent at least ten (10) calendar days in advance of the effective date of the sanction; however, if deemed necessary or prudent, sanctions may be imposed at any time and without notice. Notices of intent will be sent to the appropriate local board chairperson and chief elected official(s) or subrecipient, and should include the following information:
 - Sanctionable act upon which the sanction was based;

- *Sanction status level* in which the local board or subrecipient is placed;
- Nature of the remedial action and/or penalty, and its effective date;
- Timeline for completing the remedial action and/or penalty; and
- Method for appealing the management decision.

Note: The content of a notice of intent may change as deemed appropriate by the Department.

V. **Status.** The Department may place a subrecipient into an *at-risk* or *high-risk* designation status and/or a sanction status once a determination has been made regarding such risk and/or or violations. It is at the discretion of the Department to determine the appropriate “status level” for the applicable subrecipient.

A. **Risk status.** There are three (3) *risk status levels* that may be assigned by the Department to a subrecipient depending upon the identification of internal and external risks that may prevent the subrecipient from meeting compliance or performance requirements.

- **Low-risk.** A *low-risk status* is assigned to a subrecipient whose assessment and results of oversight activities indicate minimum expectations for performance and compliance are being met and/or are likely to be met.
- **At-risk.** An *at-risk status* is assigned to a subrecipient who is determined to be likely to fail compliance and performance requirements. Such designation is based on the results of compliance and/or performance reviews, the presence of risk indicators, or other oversight assessment activities and may be determined at various phases of the award lifecycle. Subrecipients designated as an *at-risk status* level may be notified of such determination and may if determined appropriate, may have remedial actions and/or additional conditions imposed.
- **High Risk.** A *high risk status* is assigned to a subrecipient who is determined to have recurrent types of findings; the lack of effective governance and/or administrative provisions; and/or a recent pattern of poor outcomes (e.g., demonstration of a lack of fiscal integrity/stability; an inability to effectively implement or comply with requirements; inadequate management system; failure to adequately safeguard assets; or has experienced a change in any risk assessment categories).

B. **Sanction status.** There are three (3) *sanction status levels* that may be assigned by the Department to a subrecipient depending upon the nature and severity of the sanctionable act(s), mitigating circumstances surrounding the sanctionable act(s), or other factors as the Department deems relevant. *Sanction status levels* may change as deemed to be appropriate by the Department.

- **Level one.** *Level one sanction status* is assigned for an entity’s failure to perform or comply as required by the Department. Examples of sanctionable acts associated with a *level one sanction status* include but are not limited to:
 - Failure to submit timely and accurate financial or performance reports;
 - Failure to take action, within established timeframe, to resolve findings as required;
 - Failure to sufficiently resolve audit findings or questioned costs within required time frames;
 - Failure to submit audits as required by OMB Uniform Guidance and/or the provisions found in the Department’s Workforce System Policy No. 03-2015 attached financial management guide;
 - Breach of administrative, contract, or grant agreement provisions;
 - Failure to retain required service delivery or financial records; and

- Failure to meet one (1) or more local negotiated performance levels in a single program year based on annual performance outcomes.
- Level two. *Level two sanction status* is assigned for significant failure to perform or comply as required and may result in the assessment of more significant actions and/or penalties than those assessed to a subrecipient in *level one sanction status*. Examples of sanctionable acts associated with a *level two sanction status* include but are not limited to:
 - Failure to observe accepted standards of administration;
 - Failure to sufficiently (as determined by the Department) resolve or implement remedial action on a level one sanction within the time provided and detailed in the notice of intent;
 - Repeated violation within two (2) consecutive program years; and
 - Failure to meet negotiated performance levels for the same performance measure for two (2) consecutive program years.
- Level three. *Level three sanction status* is assigned for extreme failure to perform or comply as required by the Department. A *level three sanction status* may result in the assessment of the most severe penalties and/or extensive remedial actions. Examples of sanctionable acts associated with a *level three sanction status* include but are not limited to:
 - Gross negligence;
 - Willful disregard of the requirements of WIOA and other federal and state laws, regulations, policies, or terms and conditions of applicable awards, contracts, etc.;
 - A pattern of mis-expenditure (e.g., as described in WIOA Section 184(c)(2) and (3));
 - Incidents of fraud, malfeasance, misapplication of funds or other serious violations (e.g., as defined in US Department of Labor Training and Employment Guidance Letter No. 2-12);
 - Failure to meet local negotiated performance levels for (3) consecutive program years;
 - Failure to sufficiently (as determined by the Department) resolve or implement remedial action while placed in a *level one sanction status* within 360 calendar days of notice;
 - Failure to sufficiently (as determined by the Department) resolve or implement remedial action while placed in a level two sanction within 180 calendar days of notice; and
 - Committing the same violation three (3) or more times within three (3) consecutive program years.

VI. Conditions, Remedial Actions and Penalties. The conditions, actions and/or penalties provided herein regarding sanctionable acts and risk mitigation supplement, but do not supplant, applicable civil and criminal actions specified in other areas of law.

A. Criteria. Conditions, remedial actions and/or penalties will be imposed based on the following criteria:

- Totality of the circumstances surrounding the risk status assignment and/or the sanctionable act(s):
 - Source, type, nature and frequency of funding;
 - Severity, nature, duration, and extent of the sanctionable act(s) and/or risk;
 - Experience (of the Department or other program entity) with the subrecipient regarding its ability to administer a program (e.g., occurrences of sanctionable acts, resolution of sanctions)

and sanctionable acts, efforts to prevent the occurrence of sanctionable acts, and oversight results, previous risk status assignments); and

- Other criteria not listed that may be deemed appropriate by the Department (e.g., justification for subrecipient's failure to provide necessary information or take required action; or demonstrations of willingness by the subrecipient to cooperate in the sanction process).

Note: Notwithstanding any lawful requirements, it is at the discretion of the Department to determine the appropriate condition, action and/or penalty.

B. Nonperformance. The Department may increase risk status assignment and/or impose sanctions on a subrecipient for failure to achieve required or negotiated levels of performance, other statutory, program-specific, or state-initiated performance-related requirements. Remedies regarding measures other than negotiated performance levels will be assessed as deemed appropriate by the Department. Actions and penalties associated with nonperformance for negotiated performance levels include but are not limited to the following:

- *First-year nonperformance.* If a subrecipient fails to meet one (1) or more negotiated performance level in a single program year, the subrecipient must develop a "performance improvement plan" (PIP) within 45 calendar days of the final performance outcome.

The Department may also require the local board to modify its local plan or take other action designed to improve the local board's performance; and may include additional remedial actions as deemed appropriate.

- *Second-year nonperformance.* In addition to a PIP, if a local board fails to meet one (1) or more local negotiated performance levels for the same performance measure(s) for a second consecutive program year, the Department will review the identified performance deficiencies and impose the appropriate action and/or penalty. Such action and/or penalty will include technical assistance, formal monthly performance reviews, local board organizational change and/or financial penalties; and may include additional remedial actions as deemed appropriate.

- *Third-year nonperformance.* If a local board fails to meet one (1) or more local negotiated performance levels for the same performance measure(s) for a third consecutive program year, the Department will review the performance deficiencies and make a recommendation to the governor to impose a reorganization plan for the local area. The Department will also issue a notice of intent to revoke approval of all or part of the affected local plan, requiring at a minimum, a modification of the local area's local plan, and may make additional recommendations to the governor that include one (1) or more of the following actions:

- Prohibiting the use of certain providers, partners and operators;
- Financial penalties of up to five percent (5%) of the total local area allocation;
- Restructuring the local board, including decertification of the current local board and a plan for appointment and certification of a new local board;
- Selecting an alternate entity to administer the program for the local workforce area involved;
- Requiring designation of a new fiscal agent;
- Local workforce development area re-designation; and
- Other such changes as the Department or governor deem necessary to ensure performance.

Note: The amount of financial sanctions imposed for nonperformance will not exceed five percent (5%) of the combined WIOA formula funds for a particular program year. Such sanctions imposed (i.e., reduction of funds by the percent assessed) will apply to the subsequent year's funding allocation.

- **Local board performance improvement plan.** The local board PIP is used to resolve performance issues when a subrecipient does not meet the levels of performance as negotiated with the Department. Each PIP must include at a minimum the following:
 - List of performance measure(s) for which the local board failed to achieve at least 80 percent of the negotiated performance level;
 - Detailed analysis and explanation of why the local board failed to achieve at least 80 percent of the negotiated performance level (to include addressing all identified deficiencies);
 - Description of the remedial actions to be taken and the timeline for such actions to address performance deficiencies in subsequent program years;
 - Identification of the technical assistance needed to support successful performance, including the source and type of assistance; and
 - Local board monitoring plan of its subrecipients with timelines for evaluating effectiveness of corrective action plan.

Each PIP must be submitted to the Department within 45 calendar days of the final performance outcome reported in the Pennsylvania annual report and such PIP must be fully implemented by the end of the current program year (June 30).

Note: The PIP may be modified by the Department in conjunction with the local board as deemed appropriate by the Department.

C. Noncompliance. The Department may impose sanctions on a subrecipient for failure to comply with federal, state or local laws, regulations, policies, or terms and conditions of applicable awards, contracts, etc. Remedial actions and/or penalties will be applied in accordance with applicable laws, regulations, policies, directives, award/contract provisions, etc. and may include, but are not limited to:

- **Disallow costs.** The Department may determine charges to an award to be unallowable.
- **Reorganization plan.** The Department may require a reorganization plan. Such a plan may include:
 - Decertification or restructuring of the local board;
 - Appointment and certification of a new local board;
 - Prohibition on the use of certain providers;
 - Selection of an alternate entity to administer the program for the local workforce area involved;
 - Redesignation of the local area; and
 - Other organizational changes the Department deems necessary to ensure compliance.
- **Repayment.** The Department may require the repayment of disallowed costs:
 - Repayment of any federal fund amounts found not to have been expended in accordance with applicable statute, regulations, policies, or terms and conditions of applicable awards, contracts, etc. (e.g., WIOA Section 184 (c)(4)); and

- Repayment of sources other than federal funds for unallowable expenditures where liability arises (e.g., as defined by USDOL Training and Employment Guidance Letter (TEGL) 2-12).

Note: The Department may offset certain amounts to which the local workforce area is, or may be, entitled to under WIOA, unless it is determined that the local workforce area should be held liable pursuant to TEGL No. 2-12 (i.e., willful disregard of the requirements of WIOA title I; gross negligence; failure to observe accepted standards of administration; a pattern of mis-expenditures as described in WIOA Section 184 (c)(2) and (3); or incidents of fraud, malfeasance, misapplication of funds or other serious violations.)

- Reduction of funds. The Department may reduce or de-obligate all or part of funds awarded.
- Reallocation of funds. The Department may reallocate all or part of funds award as a result of noncompliance regarding obligation or expenditure requirements (e.g., WIOA title I funds).
- Withholding, suspension and termination of funds. The Department may immediately terminate or suspend funds, in whole or in part, when necessary to ensure the proper operation of the program and ensure the integrity of funds.

D. Other Conditions, Remedial Actions and Penalties. In addition to the remedial actions, additional conditions and penalties described above, the Department may impose one (1) or more of the following actions and/or penalties for each occurrence of a sanctionable act.

- Mandatory participation in technical and quality assurance activities;
- Mandatory participation in training;
- Department-developed and local board-implemented corrective action plan to address the weaknesses identified;
- Specific correction action plan timeline (i.e., implementation and completion deadline);
- Submission of additional or more detailed financial or performance reports;
- Appearances at Pennsylvania State Workforce Development Board meetings by the local board's executive director, other administrative officer or the subrecipient to report on activities and progress until performance is satisfactory;
- On-site visits by the Department or its designee to monitor and assist with daily operations of a local board, a local board's contractor or subrecipient;
- Department meetings with the local area's chief elected officials, local board chair, local board members, local board executive director or subrecipient;
- Department approval of specified actions (e.g., prohibition against entering into specific contracts or engaging in certain activities without explicit prior approval of the Department);
- Contract cancellation or termination;
- Prohibiting the use of designated service providers, including workforce system operators;
- Issuing a notice that the subrecipient has been placed in a "no-draw" status;
- Delay, suspension or denial of contract payments;
- Require evidence of acceptable performance or compliance within a given time period prior to Departmental release of advanced payment;
- Require payment as reimbursement rather than advanced payments;

- Ineligibility for additional discretionary or other funds;
- Designation as a high-risk local board or subrecipient;
- Additional conditions applied to
- Initiation of suspension or debarment proceedings; and
- Other actions deemed appropriate by the Department to assist the chief elected official(s), local board or subrecipient in correcting deficiencies and ensure compliance.

VII. Technical Assistance. Technical assistance is vital in addressing performance, compliance and continuous quality improvement. Subject to the availability of funds and at the discretion of the Department, subrecipients may apply for funds to support technical assistance initiatives.

A. Limits. Applicable subrecipients may request from the Department funds to be used to support technical assistance activities related to sanctions. Upon such request, the Department will evaluate the request and determine the resources and activities to be used in the provision of such technical assistance.

State-funded technical assistance limits may be imposed (e.g., subrecipients may not receive more funding for technical assistance than it would have been eligible to receive for performance incentive awards for the program year; or such funds may not be applied toward administrative costs, staff salaries or benefits, out-of-state travel, meals or refreshments, or capital equipment purchases, including computers or other equipment).

B. Activities. Examples of technical assistance activities include, but are not limited to:

- Use of the Commonwealth Workforce Development System;
- Service delivery quality review;
- Analysis and recommendation for improving processes and methodology;
- Monitoring of services and providers;
- Linkages with business, workforce development partners, and other stakeholders;
- Staff development;
- Restructuring of staff;
- Case management;
- Performance management;
- Financial management;
- Program-specific audits or reviews; and
- Follow-up services.

Note: Notwithstanding any lawful requirements, it is at the discretion of the Department to determine the appropriate action and/or penalty.

VIII. Resolution.

A. Risk process resolution.

- If additional conditions were added or remedial actions were imposed, the subrecipient must address each condition and action and submit supporting documentation in response to said condition or action, as appropriate and/or instructed.

- Once the subrecipient submits a response to the additional conditions and/or completes the remedial actions imposed, the Department will review the response, documentation and remedial actions and make a determination.
- If the Department determines the subrecipient's response acceptable, the Department will remove the additional condition(s) that were adequately addressed and make any adjustments as deemed appropriate to the subrecipient's risk level.
- The Department will issue a written notice to the appropriate local board regarding the removal of any conditions and/or termination of any required remedial actions imposed.
- If the Department determines that noncompliance or nonperformance cannot or has not been adequately addressed (i.e., continued failure to comply or performance) through the additional conditions or remedial actions imposed, the Department may consider other conditions, actions and/or penalties as allowable or determined appropriate.

B. Sanctions process resolution.

- The Department will issue a written notice to the appropriate local board regarding a resolution determination for a sanctionable act and/or sanction, and changes if any, to an applicable entity's *sanction status level* assignment.
- The Department will issue a *sanction resolution determination* to indicate the conclusion of the remedial actions and/or penalties; and the removal or change in the *sanction status level* associated with the applicable sanction and entity.
- A notice of resolution will be sent to the appropriate local board's chairperson. Such notice will include the sanction resolution date (i.e., official date a specific sanction is determined to be concluded).

IX. Appeal. All management decisions issued by the Department may be appealed pursuant to the process provided in Chapter 9 of *Workforce System Policy No. 03-2015, Financial Management's* attached financial management guide.

X. Contact Entity. Requests for technical assistance and/or inquiries regarding this guidance should be directed to the Pennsylvania Department of Labor & Industry, Director of the Bureau of Workforce Development Administration, 651 Boas Street, 12th Floor, Harrisburg, PA 17121.

Requests may be submitted to the following resource account: RA-LI-BWDA-Policy@pa.gov

XI. Rescissions. This policy rescinds Workforce Investment Information Notice (WIIN) No. 1-11, *WIA Performance Incentive Award, Technical Assistance and Sanctions Policy*, July 15, 2011

XII. Accessibility. Workforce system directives are available on the PA Department of Labor & Industry website at <http://www.dli.pa.gov> for downloading.

XIII. Appendices.

- **Appendix A: References**
- **Appendix B: Definitions**

Appendix A: References

Public Law (Pub. L.) 113-128, Workforce Innovation and Opportunity Act of (WIOA)

Pub. L. 105-220, et seq., Workforce Investment Act of 1998 (WIA)

80 Federal Register (FR) 20689 Workforce Innovation and Opportunity Act – Notice of Proposed Rulemaking

20 CFR Parts 652, 660, 662, et al., Workforce Investment Act of 1998 Regulations

29 CFR Part 97.40, Monitoring and Reporting Program Performance

2 CFR Part 200 et al, and Part 2900, Office of Management and Budget (OMB) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

Training and Employment Guidance Letter (TEGL) No. 09-07, Revised Incentive and Sanction Policy for Workforce Investment Act Title IB Programs

TEGL No. 2-12, ETA Grant Recipient Responsibilities for Reporting Instances of Suspected Fraud, Program Abuse and Criminal Conduct

TEGL No. 17-05, 17-05 Change 1, and 17-05 Change 2, Common Measures Policy for the Employment and Training Administrations (ETA) Performance Accountability System and Related Performance Issues

TEGL No. 30-14, Negotiating or Extending Performance Goals for the Workforce Investment Act (WIA) Title IB Programs and Wagner-Peyser Act Funded Activities for Program Year (PY) 2015

TEGL No. 17-15, WIOA Adult, Dislocated Worker and Youth Activities Program Allotments for Program Year (PY) 2016; Final PY 2016 Allotments for the Wagner-Peyser Act Employment Service (ES) Program Allotments; and Workforce Information Grants to States Allotments for PY 2016

TEGL No. 23-15, Process for Making High Risk Determinations after Award and the Associated Risk Mitigation Procedures

Pennsylvania Workforce Innovation and Opportunity Act (WIOA) Combined State Plan, Period of July 1, 2016 through June 30, 2020

Pennsylvania Workforce System Directives:

[<http://www.dli.pa.gov/Businesses/Workforce-Development/Pages/Pennsylvania's-Workforce-System-Directives.aspx>]

Pennsylvania Management Directives:

[[http://www.portal.state.pa.us/portal/server.pt/community/management_directives/711/management_administrative_support_\(205-260\)/208571](http://www.portal.state.pa.us/portal/server.pt/community/management_directives/711/management_administrative_support_(205-260)/208571)]

Note: This policy and related guidance may encompass other federal, state and local statutes, regulations, terms and conditions of an award or contract, as well as issuances, policies and official directives not listed above.

Appendix B: Definitions

Corrective Action Plan is a formal process used by the Department to resolve issues whereas a local board or other applicable workforce-related entity violated federal, state and local laws, regulations, contract provisions/grant agreements or conditions, policies, official directives and regional/local plans.

Management Decision is the determination by the federal awarding agency or pass-through entity (e.g., determination of findings and corrective actions plans, and the issuance of a written decision to an entity as to what remedial action is necessary, or penalty is imposed/assessed).

Noncompliance is any instance or occurrence of failure to comply with applicable federal, state and local laws, regulations, contract provisions, grant agreements, policies, official directives and regional/local plans.

Nonperformance is any instance or occurrence of failure to perform as required or negotiated, based on applicable federal, state and local laws, regulations, contract provisions/grant agreements or conditions, policies, official directives and regional/local plans. Nonperformance includes but is not limited to failure to achieve negotiated levels of performance for primary indicators of performance described in WIOA Section 116(b)(2)(A) (or, if applicable, core indicators of performance described in section 136(b)(2)(A) of WIA); other statutory, program-specific, or state-initiated performance-related requirements.

Performance Improvement Plan is a formal process used by the Department to resolve performance issues when a local board or other subrecipient did not meet one (1) or more of the levels of performance as negotiated with the Department. The goals of a performance action plan include, but are not limited to: create open dialog between the Department and subrecipient; improve and sustain desired performance results; address performance discrepancies; initiate action steps to be taken to correct performance—including identification of technical assistance and other resources available; provide a timetable outlining the dates by which improvement will be necessary; and evaluate performance at agreed-upon intervals and make adjustments to the plan as appropriate.

Remedial Action is corrective action or progressive services of actions taken by an entity to resolve an identified deficiency relating to noncompliance or nonperformance, produce recommended improvement, or demonstrate that a finding is either invalid or does not warrant action.

Risk Designation is a formal status assigned to a subrecipient regarding the entity's likelihood of noncompliance or nonperformance (e.g., three (3) levels of risk designation "low-risk" "at-risk" and "high-risk").

Sanction is a penalty imposed/assessed or a remedial action required for nonperformance or noncompliance with applicable federal, state and local laws, regulations, contract provisions/grant agreements or conditions, policies, official directives and regional/local plans.

Sanctionable Act is violation of federal, state and local laws, regulations, contract provisions, grant agreements, policies, official directives, and regional/local plans as determined by the Department or USDOL; primarily involving an occurrence of noncompliance or nonperformance. Such failures may occur during or after the program, grant, fiscal, contract or calendar year.

Subrecipient is a non-federal entity that receives a sub-award to carry out part of a federal program; but does not include an individual that is a beneficiary of such program (e.g., local workforce development boards, other partners, contracted service providers and intermediaries are subrecipients). A subrecipient may also be a recipient of other awards directly from a federal or non-federal awarding agency.

Uniform Guidance (commonly referred to as "Super Circular") is the Office of Management and Budget (OMB) final rule that encapsulates multiple OMB circulars into one. The formal name is "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards."