



Virginia Employment Commission
Effective Date: November 14, 2017

POLICY ON CORRECTIVE ACTION OR SANCTION FOR DISCRIMINATION

PURPOSE

To establish and communicate procedures for obtaining prompt corrective action or as necessary, applying sanctions when recipients are determined to be in violation of the nondiscrimination and equal opportunity provisions.

REFERENCES

Corrective Actions and Sanctions Section 188 of WIOA and 29 CFR 38

POLICY STATEMENT

The Virginia Employment Commission (VEC) will seek corrective action from a recipient if a violation is identified as the result of EO monitoring or a complaint investigation. Efforts will be made to secure voluntary compliance. Technical and discrimination violations will be addressed through corrective actions.

A policy has been established and procedures for obtaining prompt and corrective action, or as necessary, application of sanctions when a training provider or other recipient is not in compliance with the nondiscrimination and equal opportunity provisions. The EO Officer is responsible for informing the recipient of the corrective actions and sanctions commensurate with EO violations through issuance of a policy directive or memorandum.

VIOLATIONS

When technical violations¹ are found in compliance monitoring, the EO Officer should notify the recipient (an entity or partner in a One-Stop delivery system or training and service providers) in writing of the violations along with recommendations for corrective action. The respective EO Officer is responsible for providing technical assistance to correct the violations. Corrective action may include policy development or educating individual responsible for implementing the required action. A follow-up visit or contact should be made to evaluate progress made toward resolving the violations.

¹ Technical violations are instances of noncompliance that are generally insufficient to constitute illegal discrimination, i.e. failure to post required material, failure to include an EO assurance in a contract, etc.

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When a recipient is cited for discrimination violations² as a result of an investigation and/or monitoring, efforts should be made to achieve voluntary compliance by corrective action or a conciliation agreement to correct the discrimination.

The provisions for corrective action outlined in the Discrimination Complaint Policy. Corrective action should be completed within 45 days from the date of initial notification of the violation. Follow-up monitoring shall be conducted to determine whether compliance has been attained. Recipients shall provide access to information to include the provisions of reports and other information pertaining to determined violations, as requested.

Conciliation agreements must include the following provisions:

- Be in writing;
- Address each cited violation, specify the corrective action to be taken, and state the period of time needed to attain compliance;
- Provide for periodic reporting, as determined by the EO Officer, regarding the status or corrective action;
- Provide that the violation(s) do not recur; and
- Provide for enforcement if a breach of the agreement occurs.

SANCTIONS

If the State EO Officer concludes that compliance cannot be secured through voluntary means, he or she will notify the Commissioner in writing to include the following:

- The apparent violation(s) and the pertinent nondiscrimination or equal opportunity provision(s) of 29 CFR 38;
- The efforts made to achieve voluntary compliance; and
- The corrective action the recipient must take to redress the violation.

The Commissioner may secure voluntary compliance with the recipient through a written assurance and/or conciliation agreement. Sanctions shall be considered by the Commissioner only if the recipient will not agree to take voluntary corrective action. Sanctions that may be imposed include termination of funding, partial funding and disallowance of selected costs.

² Discrimination violations are more serious such as findings of disparate treatment or failure to provide a reasonable accommodation.

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