

## Policy and Procedure Manual

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**Policy**

<b>Title:</b>	Blanket Compliance Policy	<b>Number:</b>	05-100
<b>Effective Date:</b>	June 3, 2005	<b>Revision Date:</b>	

**Purpose**

The purpose of this Policy is to establish procedures for ensuring that all board actions and decisions occur in compliance with state and federal regulations.

**Reference**

- P.L.105-220 Workforce Investment Act (WIA) Chapter 2, Local Provisions
- VEC Policy 99-2 Establishment of Local Workforce Investment Boards
- Western Virginia Workforce Development Board Bylaws

**Policy**

When dealing with any and all compliance or other regulatory issues affecting the operation of the Western Virginia Workforce Development Board and all related actions under the Workforce Investment Act of 1998, *and* in the absence of applicable local policy, the Board of Directors and all staff, contractors, training providers or other affiliates, will adhere to the applicable policy or policies developed and published by the Workforce Investment Act Division of the Virginia Employment Commission, or other entity authorized by the Commonwealth of Virginia, and in effect at time of the original question, incident or action.

## Policy

<b>Title:</b>	Sunshine Policy	<b>Number:</b>	03-101
<b>Effective Date:</b>	April 4, 2003	<b>Revision Date:</b>	

### Purpose

To define the policy for ensuring that the WVVDB, its committees, the Youth Council and its subcommittees comply with the provisions of the Virginia Freedom of Information Act (Sunshine Provisions).

### Reference

- Virginia Freedom of Information Act
- VEC WIA Policy 99-2, Attachment A

### Policy

The WVVDB, the Youth Council and their respective committees and subcommittees shall make available to the public, on a regular basis, through open meetings, information regarding the activities of the WVVDB including information regarding the local plan prior to submission of the plan and regarding membership, the designation and certification of workforce center operators consistent with the State plan and the award of grants or contracts to eligible providers of youth activities and upon request, minutes of formal meetings of the WVVDB.

To ensure compliance with the Sunshine Provisions, the WVVDB, the Youth Council and all of their Committees and subcommittees shall take measures to ensure that:

- A. All meetings will be open to the public.
- B. All meetings will be held in an accessible location for the disabled and that all information is provided in accessible and alternate formats.
- C. The date, time and location of the first regular meeting of each calendar or fiscal year shall be published on the WVVDB website and distributed to regional media no less than fifteen days prior to the meeting. All subsequent meetings of the calendar year shall be posted to the WVVDB website as meeting locations are secured.
- D. Public notice will be given at least 24 hours in advance of any special meeting or rescheduled regular meeting, except when a meeting is called to deal with a real or potential emergency involving a clear and present danger to life or property.
- E. Votes of local Board members will be publicly cast and roll call votes will be recorded and kept in the official Board minute book.
- F. Written minutes of all meetings will be kept in the WVVDB administrative office, and shall include the date, time and place of the meeting, members present, substance of all official actions, a record of roll call votes and the names of any citizens who appeared and gave testimony.
- G. Executive meetings may be held as closed sessions according to the provisions of the Virginia Freedom of Information Act. An executive meeting may be held during or after an open meeting or may be announced for a future time. If an executive session is not announced for a specific time, WVVDB members must be notified 24 hours in advance of the date, time, location and purpose of the executive session. The reason for holding an executive session must be announced at the open meeting either immediately prior or subsequent to the executive session. **Official action on any matter discussed at an executive session must be taken at an open meeting.**

**Procedure**

<b>Policy Title:</b>	Board Member Information	<b>Number:</b>	03-102
<b>Effective Date:</b>	April 4, 2003	<b>Revisions:</b>	

**Purpose**

The purpose of this procedure is to establish procedures methods for ensuring that board members are provided with sufficient information and opportunity to carry out their responsibilities as members of the Western Virginia Workforce Development Board (WVWDB).

**Reference**

- P.L.105-220 Workforce Investment Act (WIA) Chapters 2, Local Provisions
- VEC Policy 99-2
- Western Virginia Workforce Development Board Bylaws

**Procedure**

- A. At least one week prior to any meeting of the WVWDB or its committees, all board members will receive via mail or electronic means
  1. Notice of the date, time and location of the meeting;
  2. Meeting agenda;
  3. Sufficient informational material to provide members the opportunity to make an informed decision regarding any action that is to be taken during the meeting.

*These items will also be provided on the WVWDB website.*

- B. Minutes of each board, Youth Council or committee meeting will be drafted and disseminated to all board members and appropriate committee members no later than ten business days following each meeting.
- C. Each Board member will be notified when committees are to be formed and will be given the opportunity to participate on a committee.

**Procedure**

<b>Name:</b>	Coordination with Local Elected Officials	<b>Number:</b>	03-103
<b>Effective Date:</b>	April 4, 2003	<b>Revisions:</b>	

**Purpose**

The purpose of procedure is to establish methods for ensuring that local elected officials and their representatives are provided with sufficient information and opportunity to carry out their responsibilities as governed by WIA law.

**Reference**

- P.L.105-220 Workforce Investment Act (WIA) Chapters 2, Local Provisions
- VEC Policy 99-2
- Western Virginia Workforce Development Board Bylaws
- Agreement between the Western Virginia Workforce Development Board (WVWDB) and the Chief Local Elected Officials Consortium (CLEOC)

**Procedure**

- A. The following items will be mailed to all CLEO Consortium members at least one week prior to any meeting of the WVWDB, the CLEOC, or the Youth Council:
1. Notice of the date, time and location of the meeting;
  2. Meeting agenda;
  3. Sufficient informational material to provide members the opportunity to make an informed decision regarding any action that is to be taken during the meeting.

*These items will also be provided on the WVWDB website.*

- B. Minutes of each board, Youth Council, or CLEOC meeting will be drafted and disseminated to all CLEOC members no later than ten business days following each meeting.

## Policy and Procedure

<b>Title:</b>	Compliance Monitoring	<b>Number:</b>	03-104
<b>Effective Date:</b>	April 4, 2003	<b>Revisions:</b>	

### Purpose

The purpose of this policy and procedure is to establish a monitoring system which contains acceptable standards for ensuring accountability. The system includes monitoring and implementation of sub-grantee contracts, carrying out monitoring activities at reasonable intervals, and taking prompt and appropriate corrective action when evidence indicates a possible violation of the Act, regulations or policies of the VEC or the WVVDB.

### Reference

- P.L.105-220 Workforce Investment Act (WIA)
- VEC Policy 00-4
- Western Virginia Workforce Development Board Bylaws
- Agreement between the Western Virginia Workforce Development Board and the Chief Local Elected Officials Consortium

### Policy

- A. The WVVDB Executive Committee and the Chief Local Elected Officials Consortium will select individuals to perform monitoring duties.
- B. Compliance monitoring of each WVVDB-operated program and contract will be conducted at least once during the contract year.
- C. Compliance monitoring is conducted to verify contract and program compliance with the terms and conditions of the contract, the Act, and the policies established by the State WIA Unit and the WVVDB.
- D. Compliance monitoring will be conducted by reviewing records and documents maintained by the WVVDB administrative office on each program or contract; conducting onsite reviews of procedures, records, and documents maintained by the contractor or program operations staff; and submitting written reports of findings, including corrective action recommendations if appropriate.

### Procedure

#### General Monitoring Procedure

- A. A written monitoring checklist is developed to ensure all acceptable standards of accountability are reviewed.
- B. Compliance monitoring activities are scheduled in advance with the contract signatory or designated representative or program operations staff. Those responsible for the contract or program operations are also notified as to the purpose, procedure and specific areas to be monitored.
- C. Reports, records and documents, maintained by the WVVDB administrative office on each contract or program, are reviewed for completeness, accuracy and timeliness of submission. Such reports, records and documents include but are not limited to:
  1. The approved contract and modifications thereto and/or program specifications,
  2. Correspondence and reports maintained by the contracting officer in the contract program operations file,
  3. Transmittal of individual participant records,
  4. Previous monitoring reports, and
  5. Applicable corrective plans.
- D. Each contract or program is monitored at the site of operation. On-site monitoring includes but is not limited to:

1. An entry interview with the contract signatory or designated representative or program operations staff;
  2. A review of applicable written policies and procedures;
  3. Staff and participant interviews;
  4. A review of participant records, including eligibility documentation;
  5. A review of financial procedures, records and documentation; and
  6. An exit interview with the contract signatory or designated representative or program operations staff.
- E. A written report is completed on each contract or program monitored and is simultaneously submitted to the President, the WVVWDB Chair and the contract/program operator. The written report includes but is not limited to:
1. Completed applicable sections of the written monitoring checklist;
  2. Written comments and recommendations on identified deficiencies.
- F. Verbal reports may be made to the President when apparent deficiencies are identified which may need immediate action. Such deficiencies include but are not limited to:
1. Inaccurate or insufficient financial management procedures;
  2. Inaccurate or insufficient participant eligibility determinations;
  3. Child labor law violations; or
  4. Blatant non-compliance with the terms of the contract or program specifications or with other applicable federal, state, WVVWDB, or WIA requirements.

### Special Investigations

Special investigations are conducted when information is received which indicates possible fraud, abuse or alleged criminal activity. The investigation is designed to provide the WVVWDB and the President with sufficient information to justify a decision to notify appropriate legal authorities.

### Processing Procedures

- A. The President notifies the WVVWDB Chair and the State WIA office or Department of Labor upon receipt of any request to conduct a special investigation and or upon the initiation of any special investigation.
- B. The President or WVVWDB Chair appoints specific persons as appropriate to conduct special investigations.
- C. Assistance or advice from other individuals approved by the Executive Committee or the President may be solicited during a special investigation.

### Desk Reviews

Desk reviews are conducted by WVVWDB staff to ensure that the performance objectives of Workforce Investment Area III (Area III) and individual contracts and programs are attained within reasonable limits. These performance reviews are used to determine whether program design and program mix are adequate to meet the needs of the eligible population and attain planned objectives.

Performance reviews are conducted at regular intervals on each contract or program operating in Area III. Participant and financial status reports are reviewed on the basis of actual cumulative data versus plan, actual performance rates versus plan, and actual performance relative to performance standards criteria.

### Processing Procedures

- A. The Virginia Workforce Network Information Systems and financial systems are used to maintain individual participant data and fiscal data sufficient to generate monthly, quarterly and annual performance reports.
- B. Performance reports are generated by MIS and fiscal staff and submitted to the President for development of performance reviews.
- C. The contracting officer maintains monthly contract and program information and reports sufficient to review performance on participant and fiscal outcomes.
- D. Quarterly performance review summaries on individual contracts and programs are submitted to the WVVWDB by the workforce center operator.
- E. The WVVWDB staff develops and submits reports and recommendations to the board membership relative to attainment of performance goals.

- F. Special inquiry reports may be requested by the President, WVVWDB staff or board membership for the purposes of investigating or analyzing specific data or responding to specific performance related inquiries.
- G. Following completion of each program year, WVVWDB staff may choose to develop an annual report of performance for the total of Workforce Investment Area III, individual contracts and programs. The annual report is submitted to the WVVWDB membership, the State WIA Unit, the Chief Local Elected Officials Consortium and any other interested parties.

#### Corrective Action and Follow-up

Corrective action and follow-up is conducted to eliminate reported violations. Corrective action plans are developed and implemented for the purposes of alleviating reported inadequacies in acceptable operating procedures, standards of accountability or program performance standards.

#### Processing Procedures

- A. All compliance monitoring findings that require corrective action are reported in writing to the WVVWDB Chair and the President.
- B. Compliance monitoring findings which may require immediate corrective action are verbally reported to the WVVWDB contracting officer and/or the President prior to issuing a written report.
- C. Requests for corrective action as a result of performance review findings may be initiated by WVVWDB evaluation committees and WVVWDB staff submitted to the President.
- D. The President or the Executive Committee will assign appropriate persons for conducting corrective action procedures resulting from performance review findings.
- E. Written responses to recommendations to initiate corrective action may include any of the following:
  - 1. No plan for corrective action with written justification for not initiating such action;
  - 2. A written plan for corrective action which includes dates for implementing and completing such action; or
  - 3. A written explanation of the appropriate action which has been initiated prior to the issuance for the request for corrective action.
- F. The President or the Executive Committee will assign responsibility to persons for initiating corrective action requests and follow-up on responses and actions.
- G. Written reports on corrective action activities are distributed as appropriate by the President.

## Policy and Procedure

<b>Title:</b>	Registration and Client Processing	<b>Number:</b>	03-105
<b>Effective Date:</b>	December 19, 2002	<b>Revisions:</b>	April 4, 2003 October 3, 2003

### Purpose

The purpose of this policy and procedure is to provide guidance on the collection of Equal Opportunity data for WIA Registrants (Sec. 663.105 through 663.120) and the parameters for moving customers from core services to intensive and/or training services.

### Reference

- P.L.105-220 Workforce Investment Act (WIA), Chapters 3, 4 & 5, USDOL/E&T Administration, 20 CFR Parts 652 and 663-105, et al., 8/11/00, USDOL/E&T, Training and Employment Guidance Letter No. 7-99, dated March 3, 2000.
- Requirements for Local Workforce Investment Boards in relation to the Virginia Employment Commission (VEC), Policy #006, Universal Access, Adult Eligibility and Priority of Service, dated May 3, 2000.

### Procedure

- A. All customers visiting Workforce Centers and Sites will have access to self-service, informational core services that are available without completing formal registration for equal opportunity (EO) data retention. Workforce Centers and Sites can require that all customers visiting their facility sign-in or complete survey information if the information is needed to provide reports to their Administrative entity, Workforce Investment Board, or local governments. (Workforce Centers will utilize the Virginia Workforce Network Information Survey.)
- B. All partner agencies can refer customers to other partner agencies by utilizing the Partner Agency Referral Form. The customer should receive a copy of the form so that there are clear directions as to what agency and service/assistance is being requested on their behalf. Additionally, the referring partner should have the customer complete a state approved Consent to Exchange Information Form and keep copies of both documents. The original Partner Agency Referral Form, plus one copy and a copy of the Consent to Exchange Information Form, will be sent to the receiving partner (so that action taken can be noted) and returned to the referring partner for its record and follow-up. Workforce center managers can require that each partner agency provide a copy of all referrals and action for maintenance in the workforce center's permanent records, if needed.
- C. All customers needing assistance beyond core services will be referred to the appropriate WIA partner staff representative by utilizing the Verification of Core Services Form. In order for the customer to be referred for services beyond core, he/she must adhere to the following procedure:

**A customer must complete the first step plus at least one of the other items outlined under Step 2 before moving from core services.**

Step 1 - Registration for employment with VEC (**Required**)

Step 2 (a) Self-directed job search (self-attestation), **or**

(b) Staff assisted job search, **or**

(c) Eligibility determination for targeted programs (Welfare-to-Work and programs of financial aid for employment and training programs).

Documentation of core services can be completed by any partner agency that has provided core services and determined that the customer is in need of WIA intensive and/or training services. This form must then be processed to the appropriate Workforce

Center Manager for authorization and distribution. All referring partners are required to have documentation of the core services that were provided to the customer.

4. All workforce centers and sites will collect information from **any** customer requesting assistance through the Workforce Investment Act beyond informational or self-service. (See attached table for services that require registration.) This applies to staff that is providing WIA services that require registration. The customer must be registered only when the staff person providing services beyond informational or self-service have their time being allocated to WIA funds. If the services are provided by other partner agencies that do not require registration and eligibility determination, and their staff time is not allocated to WIA, the customer does not have to be registered.
5. Registration will be completed by utilizing the WIA Applicant Form. This process will ensure the collection of Equal Opportunity data required by the Department of Labor and all records will be maintained for review. All WIA registrations that are completed must be noted eligible, ineligible, or incomplete. These records must be retained for a period of three years.
6. The VEC Workforce Investment Act supplemental forms, instructions and glossary of terms will be utilized to process WIA registrants.
7. Registrants who have previously been enrolled in federally funded training (JTPA, NRC, etc.) may receive WIA training only if they meet the following conditions:
  - The customer satisfactorily completed the planned training and employment goal **or** was otherwise a positive termination from the system;
  - The assessment of the registrant supports the need for the training requested, **and** their previous training did not provide a marketable skill or the skill is obsolete;
  - The registrant does not supersede other assessed registrants that are awaiting funds **and** has never received training through a federal program.

## Policy and Procedure

<b>Title:</b>	Individual Training Accounts (ITA)	<b>Number:</b>	03-106
<b>Effective Date:</b>	April 4, 2003	<b>Revised:</b>	February 6, 2004 August 6, 2004 April 7, 2006 October 6, 2006

### Purpose

The purpose of training is to provide eligible customers with the means to obtain the necessary skills to become gainfully employed or re-employed. This procedure is intended to define and establish parameters for Individual Training Accounts (ITA) development and expenditures.

### Reference

- 1 P.L.105-220 Workforce Investment Act (WIA)
- 2 Virginia Employment Commission (VEC) WIA Policy 00-8

### Description

A WIA-eligible registrant is enrolled in a training program if the Individual Employment Plan (IEP) supports that the training is necessary to transition the participant into the workforce. The training must support the stated purpose of WIA and be in accordance with the description of training as contained in the Act. Whenever feasible, training vendors will be requested to allow participants to receive credit for required courses when equivalent courses have been completed and can be documented from other training institutions. Additionally, costs associated with CLEP Testing will be treated as a training cost if the testing relates to the curriculum of study.

### Procedure

- 1) Eligibility. All recipients of training funds must be eligible based upon criteria established under the Act. WIA requires the coordination of training costs with funds available under other grant assistance {Section 134(d)(4)(B)}. ***WIA funding for training is limited to participants who are unable to obtain grant assistance from other sources, including PELL Grants, to pay the costs of their training or require assistance beyond that available under grant assistance from other sources, including PELL Grants, to pay the costs of such training.*** To avoid duplicate payment of costs when an individual is eligible for both WIA and other assistance, including a PELL Grant, case managers shall consider all available sources of funds, excluding loans in determining an individual's overall need for WIA funds. Individuals must maintain an active application status for PELL assistance. The exact mix of funds shall be determined based on the availability of funding for either training costs or supportive services, with the goal of ensuring that the costs of the training program the participant selects are fully paid, and that necessary supportive services are available so that the training can be completed successfully. **The total school budget will be supplied by the vendor based upon a formula used by institutions that determine financial aid.** This total school budget is not inclusive of childcare assistance.
- 2) Occupational Areas of Training. The training provided through ITAs is for the sole purpose of facilitating transition into the workforce. All training will be for occupations in demand in the labor market and determined to be of priority by the Western Virginia Workforce Development Board (WVWDB). To assist in the approval of ITA requests, the Virginia Employment Commission provides a relevant database for identifying appropriate areas of training. All training must be supported by local labor market data that is furnished by the Virginia Employment Commission, Weldon Cooper Center or other appropriate source.

**Special Training.** Requests for a waiver to provide Special Training may be considered. Participants requesting training in occupations not designated as a priority by the Board and/or not supported by local labor market data, but whose Individual Employment Plan supports pursuit of such training must meet at least one of the following conditions:

- a) The participant is planning to relocate to a geographic location where the occupation is in demand;
- b) An area employer provides documented support for the need for trained personnel in a particular occupation; or
- c) ~~If~~ A written commitment is provided by an employer to hire the individual upon completion of their training.

- 3) Training Selection. Training will be provided for priority occupations only as determined by the Board by an institution or organization certified as meeting the criteria and having completed the procedures outlined in the WVVDB Policy No. 03-112. Participants will select from the list of providers certified by the WVVDB and published annually. Training providers certification may be based on factors such as, but are not limited to, overall performance; industry skill standards; performance for significant customer groups (which includes wage replacement rates for dislocated workers); performance of specific provider sites, current information on employment and wage trends and projections; and duration of training programs.

The Virginia Workforce System provides a consumer report system with information necessary to choose a provider or program of training services. The database has direct access or links that easily identify providers by region, types of training, provider credentials, costs, class schedules, success rates, and feedback from previous customers, students and clients. These profiles detail information about the character of the institution and provide a wide variety of career education and training options.

Participants wishing to use a training provider certified by another local workforce investment board and included in the Virginia Workforce System, must request a waiver prior to enrolling in the training

- 4) Length of Training. The purpose of training services is to provide eligible customers with the means to obtain the necessary skills to become gainfully employed or re-employed. Training length will vary according to the type of training and the requirements outlined in the vendor agreement. Because entering or returning to the workforce is a priority under WIA training, cannot exceed more than 24 calendar months. Participants whose IEP includes training lasting more than 24 months must request a waiver PRIOR to beginning the training. Participants whose training was planned for less than 24 month but who require additional time to complete the program of study must request a waiver.
- 5) Repeat Training. The WVVDB will NOT provide funding for courses/programs previously funded but not successfully completed.
- 6) Individual Training Account Procedure. Training provided to participants can be provided only by approved training vendors from the statewide Eligible Providers of Training Services as certified by the Virginia Workforce Council. The WVVDB further designates locally approved training providers as Tier I (Priority) and Tier II providers. Participants may select training providers from the list of Tier I priorities. If a participant wishes to receive services from a Tier II locally approved provider or other provider on the state training provider list, the program operator must obtain a waiver PRIOR to the participant entering training. All training (with the exception of on-the-job training and customized training) must be secured utilizing the ITA Voucher (Form No. WVVDB No. 03-106A). All ITAs will be submitted to the training facility financial aid office to obtain documentation of need and information regarding other grants that may be available.
- 7) Cost Limitation. The local WVVDB limits training cost to no more than \$3,000 per participant within a twelve-month period, except as approved by the WVVDB president prior to the expenditure of funds. Funding of training, supportive services and needs-related payments may not exceed a total of \$6,000 in a 12-month period. (See Policy Nos. 03-106 Individual Training Accounts, 03-114 Needs-Related Payments, and 03-116 Supportive Services.)

All WIA registrants will be made aware of any excess cost of training not covered by the program for which they will be responsible. Program operators are expected to work closely with participants to determine the individuals' ability to contribute to the cost of training and negotiate a funding plan that will adequately meet the needs of the participant while using WIA funding in the most efficient manner possible.

- 8) Administration. All requests for ITA funding must be supported in the participant's IEP. Contact with the participant is required. All participants are also required to complete a face-to-face performance reviews with their case manager on a quarterly/ semester/module basis in accordance with the timeframes outlined on the IEP. ITA funding is authorized on a semester/quarterly/module basis and requires documentation that the participant has successfully completed previous work. This necessitates that the participant maintains ongoing contact with the case manager, and allows for discontinuation of funding for students who are not performing or demonstrating satisfactory progress toward completion of training goals. Students are expected to maintain no less than a cumulative 2.0 grade point average for the year in order to continue to receive WIA funding.

**Waivers: A waiver to the above maximum specifications may be requested from WWDB president on a case-by-case basis. The necessity for waiver must be sufficiently justified and documented in order for a waiver to be approved..**

## Policy and Procedure

<b>Title:</b>	On-the-job Training	<b>Number:</b>	03-107
<b>Effective Date:</b>	April 4, 2003	<b>Revisions:</b>	

### Purpose

The purpose of this policy and procedure is to establish guidelines for the arrangement of on-the-job training where an individual will be able to learn an employment related skill or qualify for a particular occupation through demonstration and practice.

### Reference

- Federal Register [20CFR, Sec. 667.272, Sec. 667.268, Sec. 664.710]
- VEC Policy 00-8, Virginia's Training Voucher System under WIA and Exceptions
- Workforce Investment Act [WIA Sec. 181(a)(5), Sec. 195(4), Sec. 101(31)(C)]

### Policy

#### Definition

*On-the-job training (OJT)*, as defined by VEC Policy 00-8, means:

- A. Training by an employer that is provided to a paid employee while engaged in productive work in a job; and
- B. Knowledge or skills training that is essential to the full and adequate performance of the job; and
- C. Training that provides reimbursement to the employer of up to fifty percent of the wage rate of the participant, for the extraordinary costs of providing the training and additional supervision related to the training.

#### Discussion

##### A. Participant Eligibility:

1. Participants who, after assessment, and in accordance with the Individual Employment Plan (IEP), have a substantial need for OJT;
2. Employed worker(s) when:
  - a. The employee is not earning a self-sufficient wage as determined by WVVWDB policy;
  - b. The OJT relates to the introduction of new technologies, introduction to new production or service procedures, upgrading to new jobs that require additional skills, workplace literacy, or other appropriate purposes identified by the WVVWDB; and
  - c. The OJT meets the identified training needs of the participant, according to an IEP.

##### B. Employer Eligibility:

1. May be in the public, private non-profit, or private sector;
2. Must have been in business for at least one year;
3. Must have adequate personnel to provide sufficient supervision and training;
4. Must provide a minimum of 50% of the employee's wage throughout the training;
5. Must provide benefits and working conditions at the same level and to the same extent as other trainees or employees working a similar length of time and doing the same type of work;
6. Must not have a history or pattern of failing to provide OJT participants with continued employment with wages, benefits, and working conditions that are equal to those provided regular employees who have worked a similar length of time and are doing the same type of work;
7. Must not have relocated from any location in the United States within 120 days, if the relocation resulted in any employee losing his or her job at the original location; and
8. Must not use OJT assignments to displace regular employees, or to replace any employee on layoff.

C. Payments to Employers:

1. Are deemed to be compensation for the extraordinary costs associated with training participants including additional supervision, training and the costs associated with the lower productivity of the participants, and those extraordinary costs need not be documented by the employer; and
2. Must not be in excess of 50 percent of the wage rate of the OJT participant.

D. Duration:

An OJT contract must be limited to the period of time required for a participant to become proficient in the job for which the training is designed. In determining the appropriate length of the contract, consideration should be given to the skill requirements of the job, the academic and occupational skill level of the participant, prior work experience, and the participant's individual employment plan. The OJT Time Conversion Chart will be used to determine the number of weeks an OJT contract may be written for a specific occupation. This chart is based on the *Dictionary of Occupational Titles* and must be used for all OJT contract negotiations. In no case shall the training length exceed the Skill Level Code for any position.

**Procedure**

PROCESS:

Participants will market themselves to employers as eligible for OJT, either verbally or with a referral form provided to them. If interested in a potential contract, the employer is to contact the Adult or Dislocated Worker program coordinator at the appropriate workforce center.

A review of the employer will ensure that the employer has, or forecasts, sufficient work to provide long-term regular employment for the participant. An on-site visit will ensure that the employer has the necessary equipment, materials and supervision to conduct the training. Consideration will be given to the percentage of subsidized training positions assigned to a particular business/company. This ratio shall not exceed 25% of the workforce.

The employer will provide a job description of the occupation as performed in the company and a concise outline of the OJT to be given, tasks to be learned, and the approximate hours of training required for each task. Once this information is provided, the Adult or Dislocated Worker program operator will determine the length of the training period and the hourly wage that will be covered by the OJT contract.

If the employer is agreeable to the length of training and the covered wage, then an OJT contract will be prepared. This contract must be in place prior to the start of training. When the contract is completed, it will be taken to the employer for his or her signature. After the employer has signed the contract, the appropriate official will sign for the Adult or Dislocated Worker program. A copy of the contract will be sent to the employer. The original copy will be maintained by the issuing agency.

The employer will submit an OJT monthly progress report and invoice to the appropriate agency for review and approval. Once the invoice is approved and signed, it will be submitted for payment. The agency will then reimburse the employer for training cost.

## Policy and Procedure

<b>Title:</b>	Priority of Service	<b>Number:</b>	03-108
<b>Effective Date:</b>	April 4, 2003	<b>Revisions:</b>	

### Purpose

The purpose of this policy is to establish guidelines for priority of WIA Title I services to adults, when the Board declares that funds for such services are limited. These guidelines are not to be considered as eligibility requirements but as procedures established to ensure that recipients of public assistance and other low- income individuals receive priority for intensive and training services.

### Reference

- P.L.105-220 Workforce Investment Act (WIA)
- Virginia Employment Commission WIA Policy 00-6

### Discussion

- A. No priority of service is to be applied to core services as defined in VEC WIA Policy 00-6.
- B. This guideline designates priority of service and is NOT an eligibility requirement. Adults who do not meet priority of service guidelines may be eligible for WIA Title I services, provided funds are available and other eligibility requirements are met.

### Policy

As mandated by federal law, priority of service will be given to recipients of public assistance and other low-income individuals. In Section 101(25)(B) of the Workforce Investment Act, a *low-income individual* is defined as an individual who:

- A. Is a member of a household that receives (or has been determined within the 6-month period prior to application for the program involved to be eligible to receive) food stamps pursuant to the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.);
- B. Qualifies as a homeless individual as defined in Subsections (a) and (c) of Section 103 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302);
- C. Is a foster child on behalf of whom state or local government payments are made; **or**
- D. In cases permitted by regulations promulgated by the Secretary of Labor, is an individual with a disability whose own income meets the requirements of a program described above in Subparagraphs (A) or (B), but who is a member of a family whose income does not meet such requirements.

The Poverty Guidelines and the Lower Living Standard Income Level, as published by the U.S. Department of Labor annually, are to be used in determining low-income status.

## Policy and Procedure

<b>Title:</b>	Self Sufficiency and Adult Eligibility	<b>Number:</b>	03-109
<b>Effective Date:</b>	April 4, 2003	<b>Revisions:</b>	October 6, 2006

### Purpose

The purpose of this policy and procedure is to establish eligibility requirements for adult intensive and training services, and to define Workforce Investment Area III criteria for determining whether employment leads to self-sufficiency.

### Reference

- 6 P.L.105-220 Workforce Investment Act (WIA)
- 7 Virginia Employment Commission WIA Policy 00-6
- 8 U.S. Department of Health & Human Services Poverty Guidelines
- 9 U.S. Department of Labor Lower Living Standard Income Level

### Policy

#### 1. Eligibility Requirements for Services to Adults

- A. In order to be eligible for adult services, the individual must:
  - i. Be 18 years of age or over [20 CFR Part 663.110];
  - ii. Comply with the provisions of the Military Selective Service Act [Section 189(h); 20CFR Part 667.250]; and
  - iii. Be lawfully eligible to work in the United States.
- B. Dislocated worker funds may be applied to services for an eligible adult who:
  - i. Has been terminated or laid off, or has received a notice of termination or lay-off from employment; and
  - ii. Is eligible for or has exhausted entitlement to unemployment compensation; or has been employed for a duration sufficient to demonstrate, to the appropriate entity at a workforce center, attachment to the work force, but is not eligible for unemployment compensation due to insufficient earnings or having performed services for an employer that was not covered under a state unemployment compensation law; and
  - iii. Is unlikely to return to a previous industry or occupation.

#### 2. Definitions

- A. Unlikely to return to a previous industry or occupation: The WVDDB defines "*unlikely to return to a previous industry or occupation*" as prospects for continuing employment for which the customer is qualified by training and experience are minimal and are not likely to improve in the foreseeable future in the locality in which the customer resides. This can occur due to the nature of the particular industry or occupation in an area (also known as "declining industries or occupations"), or can be the result of obsolete individual skills in a demand occupation or industry that preclude an individual from being competitive or finding reemployment without the upgrading of skills. Labor market information from multiple sources is used by the caseworker in making this determination on a case-by-case basis.

**or**

Has been terminated or laid off, or has received a notice of termination or layoff, from employment as a result of any permanent closure of, or any substantial layoff at, a plant, facility, or enterprise; or is employed at a facility where the employer has made a general announcement that such facility will close within 180 days.

- B. Substantial layoff: WVDDB defines "*substantial layoff*" as the layoff at or about the same time and for the same reasons of at least 33.3% of the total number of workers employed in an establishment.
- C. Dislocated workers do not include workers who are likely to remain with the layoff employer, or who are likely to retire and leave the labor market. A determination of whether an individual is likely to be recalled will be based upon the best available information from the worker and the employer at the time the layoff notice or closure is received. An individual who
- is employed at a facility at which the employer has made an unofficial, general announcement of closure, with no specific date as to when that closure will occur, may be eligible to receive staff-assisted core services as a dislocated worker;
- or**
- was self-employed (including employment as a farmer, a rancher, or a fisherman);
- and**
- is unemployed as a result of natural disasters or general economic conditions in the community where the individual resides.
- D. Self-employed: The WVDDB defines "*self employed*" as an individual who is engaged in an independently established trade, occupation, profession or business for which an appropriate business license has been obtained and income taxes have been filed as a "business entity";
- or**
- is a displaced homemaker who has been providing unpaid services to family members in the home [20 CFR Part 663.120, Section 101(10);
- and**
- who has been dependent on the income of another family member but is no longer supported by that income;
- and**
- is unemployed or underemployed;
- and**
- is experiencing difficulty upgrading or obtaining employment.
- E. Self Sufficiency
- i. Self Sufficiency – Adult: 175% of the Lower Living Standard Income Level updated annually by the U.S. DOL.
- ii. Self Sufficiency – Dislocated Worker: The higher of 175% of the Lower Living Standard Income Level or 80% of the layoff wage.

### 3. Eligibility

An eligible adult or an eligible dislocated worker may receive intensive services if he/she:

- A. Is unemployed and is unable to obtain employment through core services; and has been determined by a one-stop operator to be in need of more intensive services beyond core services in order to obtain employment; **or**
- B. Is employed, but who is determined by a one-stop operator to be in need of intensive services in order to obtain or retain employment that allows for self-sufficiency.

**If funds are limited**, priority of service guidelines must be considered in the case of adults, but do not apply to dislocated workers.

**In order to receive training services**, adults and dislocated workers must have already been found to be eligible and qualified for intensive services and must meet all four of the following:

- A. Who after an interview, evaluation, or assessment, and case management, have been determined by a program operator, as appropriate, to
  - 1. Be in need of training services; **and**
  - 2. Have the skills and qualifications to successfully participate in the selected program of training services; **and**
  - 3. Have selected a program of training services ~~that are~~ from the list published by the WVVDB and directly linked to board-identified priority occupations in the local area or in another area in which the participant is willing to relocate; **and**
  - 4. Have applied for other grant assistance, including Federal Pell Grants established under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.); **and**
- B. Are unable to obtain other grant assistance for such services; or
- C. Require assistance beyond the assistance made available under other education, training and employment assistance programs, including Federal Pell Grants; or
- D. Are waiting for an application for a Federal Pell Grant to be processed, except that if such individual is subsequently awarded a Federal Pell Grant, appropriate reimbursement shall be made to the local area from such Federal Pell Grant.

**If funds are determined to be limited**, federal statutory priority of service guidelines must be considered in the case of adults, but do not apply to dislocated workers.

4. Waivers:

A waiver to the above maximum specifications may be requested from WVVDB president on a case-by-case basis. The necessity for waiver must be sufficiently justified documented in order for a waiver to be approved.

## Procedure

<b>Title:</b>	Youth Eligibility	<b>Number:</b>	03-110
<b>Effective Date:</b>	April 4, 2003	<b>Revisions:</b>	

### Purpose

The purpose of this procedure is to establish guidelines for determining eligibility for WIA Title I Youth services.

### Reference

- P.L.105-220 Workforce Investment Act (WIA)
- Virginia Employment Commission WIA Policy Number 00-5

### Procedure

#### Eligibility Requirements for Youth

An eligible youth is an individual who:

- A. Is age 14 through 21;
- B. Is a low income individual; **and**
- C. Is within one or more of the following categories (as defined herein):
  1. Deficient in basic literacy skills;
  2. A school dropout
  3. Homeless, runaway, or foster child;
  4. Pregnant or parenting;
  5. An offender; **or**
  6. Is an individual (including a youth with a disability) who requires additional assistance to complete an educational program, or to secure and retain employment [WIA Sec. 101 (13)].
- D. In addition to the above listed criteria, all youth applying for services must meet these additional programmatic requirements:
  1. Must have complied with the requirements of the Military Selective Service Act by providing documentation to demonstrate compliance with those requirements [WIA Section 189(h); 20 CFR 667.250]; **and**
  2. Be lawfully eligible to work in the United States.

An eligible youth who requires additional assistance to complete an educational program, or to secure and retain employment, means an individual who is:

- A. Enrolled in an eligible education program, but also requires additional assistance beyond that offered by the service provider in order to complete the activity or program; **or**
- B. An eligible youth who is near the point of being ready for a job or employment, but requires additional assistance under Title I to acquire or retain a job.

The additional requirements will be specified by the educational program operator to avoid failure in the program; by a prospective employer to avoid failure in obtaining a specific job; or by a present employer to prevent an employed youth from losing employment. These additional requirements must be documented in the youth's individual service strategy.

Up to **five percent** of the youth participants served by youth programs in a WIA Area III may be individuals who do not meet the income criterion for eligible youth, provided that they are in one or more of the following groups:

- a. School dropouts;
- b. Basic-skills deficient [WIA, Section 101(4)];

- c. One or more grade levels below the grade level appropriate to the individual's age;
- d. Pregnant or parenting;
- e. Possess one or more disabilities, including learning disabilities;
- f. Homeless or runaway;
- g. Offenders; **or**
- h. Face serious barriers to employment.

A disabled youth whose family does not meet the income eligibility criteria under the Act may be eligible for services as a "low income individual" if an individual's own income:

- a. Meets the income criteria established by WIA Section 101 (25)(B); **or**
- b. Meets the income eligibility criteria for cash payments under any federal, state or local public assistance program [WIA Section 101(25)(F)].

A youth attending ***an alternative school*** is not a ***dropout*** under the Workforce Investment Act.

The following definitions are applicable to the eligibility for youth services under WIA:

*Low-income individual* – The term "*low income individual*" means an individual who:

- a. receives or is a member of a family that receives, cash payments under a federal, state or local income-based public assistance program;
- b. received an income or is a member of a family that received a total family income, for the 6-month period prior to application for the program involved (exclusive of unemployment compensation, child support payments, cash payments under a Federal, State or local income-based public assistance program; and old age and survivors insurance benefits received under Section 202 of the Social Security Act (42 U.S.C. 402)) that, in relation to family size, does not exceed the higher of:
  - a. the poverty line, for an equivalent period; **or**
  - b. 70 percent of the lower living standard income level, for an equivalent period;
- c. is a member of a household that receives (or has been determined within the 6-month period prior to application for the program involved to be eligible to receive) food stamps pursuant to the Food Stamp Act of 1977 (7 U.S.C. 2011 *et seq.*);
- d. qualifies as a homeless individual as defined in Subsections (a) and (c) of Section 103 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302));
- e. is a foster child on behalf of whom state or local government payments are made; or
- f. in cases permitted by regulations promulgated by the Secretary of Labor, is an individual with a disability whose own income meets the requirements of a program, described in
  - i. receives or is a member of a family that receives, cash payments under a federal, state or local income-based public assistance program; or
  - ii. received an income or is a member of a family that received a total family income for the 6-month period prior to application for the program involved (exclusive of unemployment compensation, child support payments, cash payments under a Federal, State or local income-based public assistance program; and old age and survivors insurance benefits received under section 202 of the Social Security Act (42 U.S.C. 402)) that, in relation to family size, does not exceed the higher of:
    - the poverty line, for an equivalent period; or
    - 70 percent of the lower living standard income level, for an equivalent period. [WIA, Section 101 (25)].

*Basic skills deficient* – the term "*basic skills deficient*" means, with respect to an individual, that the individual has English reading, writing, or computing skills at or below the 8th grade on a generally accepted standardized test or a comparable score on a criterion-referenced test [WIA, Section 101 (4)].

*Offender* – The term "*offender*" means any adult or juvenile who:

- a. is or has been subject to any stage of the criminal justice process, for whom services under this Act may be beneficial; or
- b. who requires assistance in overcoming artificial barriers to employment resulting from a record of arrest or conviction [WIA, Section 101 (27)].

*Out-of-school youth* – The term "*out-of-school youth*" means an eligible youth who:

- a. is a school dropout; or

- b. has received a secondary school diploma or its equivalent but is basic skills deficient, unemployed or under employed. [WIA, Section 101 (33)].

School dropout – The term “*school dropout*” means an individual who is no longer attending any school and who has not received a school diploma or its recognized equivalent [WIA, Section 101 (39)].

Participant – The term “*participant*” means an individual who has been determined to be eligible to participate in and is receiving services (except follow-up services) under a program authorized by Title I of the Workforce Investment Act. Participation shall be deemed to commence on the first day, following determination of eligibility, on which the individual began receiving subsidized employment, training or other services provided under Title I of the Workforce Investment Act [WIA, Section 101 (34)].

Older youth – The term “*older youth*” means an individual who is between the ages of 19 and 21 on the date of application.

Younger youth – The term “*younger youth*” means an individual who is between the ages of 14 and 18 on the date of application.

Pregnant or parenting – The term “*pregnant or parenting*” means an individual who is under 22 years of age and who is pregnant, or a youth (male or female) who is providing custodial care for one or more dependents under age 18 [Workforce Investment Act Title IIB Standardized Record Data (WIASRD)].

Runaway youth – The term “*runaway youth*” means an individual under the age of 18 years of age who absents himself or herself from home or place of legal residence without the permission of parents or legal guardian [45 CFR 1351.1(k)] Runaway and Homeless Youth Act].

Homeless – The term “*homeless*” means an individual who lacks a fixed, regular, and adequate nighttime residence; and who has a primary nighttime residence that is:

- A supervised, publicly or privately operated shelter designed to provide temporary living accommodations (including congregate shelters, and transitional housing for the mentally ill);
- An institution that provides a temporary residence for individuals intended to be institutionalized; **or**
- A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings [Section 103, Stewart. B. McKinney Homeless Assistance Act].

**Note:** This does not include a person who is imprisoned or detained pursuant to an Act of Congress or state law.

Unemployed – The term “*unemployed*” means an individual who, during the 7 consecutive days prior to registration, did any work at all as a paid employee, in his or her own business, profession or farm; worked 15 hours or more as an unpaid worker in an enterprise operated by a member of the family; or is one who was not working, but has a job or business from which he or she was temporarily absent because of illness, bad weather, vacation, labor-management dispute, or personal reasons, whether or not paid by the employer for time-off, and whether or not seeking another job.

“one or more grade levels below the grade level appropriate to the individual’s age” means an individual whose grade-level achievement level is below the individual’s age. (For example: a youth is age 16 and is reading at the 7th grade level.)

## Policy and Procedure

<b>Title:</b>	Equal Opportunity and Nondiscrimination	<b>Number:</b>	03-111
<b>Effective Date:</b>	April 4, 2003	<b>Revisions:</b>	

### Purpose

Programs and activities funded by the United States Department of Labor under the Workforce Investment Act (WIA) are subject to federal equal-opportunity laws and regulation. WVVWDB, as a recipient of federal funds, is obligated to comply with the nondiscrimination and equal-opportunity provisions of the Workforce Investment Act. Section 188 of the WIA describes the prohibition against discrimination on the basis of race, color, religion, gender, national origin, age, disability, political affiliation or belief and, for beneficiaries only, citizenship and participation in WIA programs.

### Reference

- Title VI and Title VII, Civil Rights Act of 1964
- Civil Rights Act of 1991
- 29 CFR Part 37
- Section 504 of the Rehabilitation Act
- Title I and Title II, Americans with Disabilities Act

### Policy

It is the policy of the Western Virginia Workforce Development Board (WVVWDB) to provide equal opportunity to all employees and applicants for employment without regard to race, color, religion, gender, national origin, age, disability, or political affiliation. This policy applies to all terms, conditions, and privileges of employment, including hiring, compensation, benefits, work assignments, evaluations, promotion, disciplinary actions, educational assistance, training, social and recreational programs, and use of WVVWDB facilities. This policy prohibits the lowering of *bona fide* job requirements and qualification standards to give preference to any applicant.

In addition to its equal opportunity commitment in employment, the WVVWDB shall provide equal opportunity in accordance with Title VI of the Civil Rights Act of 1964, Title II of the Americans with Disabilities Act, 29 CFR Part 37, and other pertinent directives. To that end, no person shall, on the basis of race, color, religion, gender, national origin, age, disability, political affiliation or belief, and for beneficiaries only, citizenship or participation in Workforce Investment Act programs, be excluded from participation in, be denied the benefits of, or otherwise subjected to discrimination in any WVVWDB program or activity.

### Procedure

#### A. Notification

1. All employees, applicants for employment, potential vendors and customers should be notified of this policy.
  - a. Customers should be notified of this policy by posting the "Equal Opportunity Is the Law" posters at all WVVWDB facilities.
  - b. New employees should be given a copy upon employment.
  - c. Current employees should be informed of changes to the policy.
  - d. Potential vendors should be notified of this policy by statements in contracts and MOUs.

#### B. Complaints of Discrimination

1. Employees and applicants may file discrimination complaints with the WVVWDB EO Officer. Employees and applicants may also file discrimination complaints with the U. S. Equal Employment Opportunity Commission.

2. Customers and vendors may file discrimination complaints with the WWVDB EO Officer or with the Director, Civil Rights Center, U. S. Department of Labor.
3. Retaliatory action shall not be taken by agency management against any person for filing a complaint of discrimination.

C. Violations

Any WWVDB employee, contractor, or employee of a WWVDB contractor found in violation of this policy shall be subject to appropriate disciplinary action.

Equal Opportunity (EO) Rights Notification Form follows.

Western Virginia  
Workforce Development Board

**EQUAL OPPORTUNITY (EO) RIGHTS NOTIFICATION**

**Equal Opportunity Is the Law**

Programs and activities funded or otherwise financially assisted in whole or in part under the Workforce Investment Act (WIA) are subject to federal equal opportunity (EO) laws and regulations. Discrimination is prohibited on the basis of race, religion, sex, national origin, age, disability, political affiliation or belief, and for beneficiaries only, citizenship or participation in programs funded under the Workforce Investment Act (WIA), in admission or access to, opportunity or treatment in or employment in the administration of or in connection with, any WIA-funded program or activity.

If you think that you have been subjected to discrimination under a WIA-funded program or activity, you may file a complaint within 180 days from the date of the alleged violation in accordance with the How to Register a Formal Complaint Policy. If you elect to file a complaint with the Workforce Center, you must wait until you receive a decision or until 60 days have passed, whichever is sooner, before pursuing further action. Further action is detailed in the How to Register a Formal Complaint Policy must be filed within 30 days of the date you received notice of the proposed resolution.

***“Program and activities funded or otherwise financially assisted in whole or in part”*** means any entity to which federal financial assistance under any title of WIA is extended, either directly, through the Governor or through another recipient (including any successor, assignee, or transferee of a recipient), but excluding the ultimate beneficiaries of the WIA funded program or activity and the Governor. ***“Recipient”*** includes, but is not limited to: Job Corps Centers and Center operators (excluding federally operated Job Corps Centers), State Workforce Centers, local and State-level agencies that administer WIA funds, Workforce Investment Board grant recipients, Area Agencies on Aging, Departments of Education, sub-state grant recipients and service providers, as well as National Program recipients.

**I, as a representative of (name of agency involved), have explained the information contained in this notification to the WIA applicant/participant.**

\_\_\_\_\_  
Signature of Representative

\_\_\_\_\_  
Date

**I, the applicant/participant, agree that this notification has been explained to me, and I have had the opportunity to ask questions for clarification.**

NOTE: COPY TO BE MAINTAINED IN APPLICANT/PARTICIPANT FILE

\_\_\_\_\_  
Signature of Representative

\_\_\_\_\_  
Date

EEO Officer		Agency:	
Address:		Telephone:	
TDD:		Voice Mail:	

## Policy and Procedure

<b>Title:</b>	Training Provider Certification	<b>Number:</b>	03-112
<b>Effective Date:</b>	April 4, 2003	<b>Revised:</b>	Feb. 3, 2006 October 6, 2006

### Purpose

The purpose of this policy and procedure is to

- 1 describe eligibility criteria applied by the WVVDB to initial certification of training providers;
- 2 establish a subsequent process for annual training provider review and recertification; and
- 3 describe the appeals process available to providers refused certification.

### Reference

10 VEC Policy 00-7.

### Discussion

The WVVDB will certify training providers on an annual basis and enter the information into the Virginia Training Provider Network. Certification is good through June 30 of the Program Year in which it becomes effective.

The WVVDB uses a two-tier system to designate training providers. Tier I (or priority) providers meet the requirements outlined herein and may be selected by any participants under the guidelines outlined in WVVDB policy. Tier II providers meet the requirements outlined herein and may be selected by a participant who has received a waiver. (See WVVDB Policy Nos. Policy Nos. 03-106 Individual Training Accounts and 06-123 Providing Core, Intensive and Training Services.)

To receive WIA training funds, a training provider must apply for certification of each program that leads to a certificate, degree, license, or for each course that leads to skill attainment. This is a two-stage process.

For initial certification, the applicant must demonstrate that the training program meets the eligibility criteria listed herein. The applicant also must submit required information for the consumer reports system on the Virginia Training Provider Network.

For recertification for the second and consecutive subsequent years, the applicant must demonstrate that it provides effective, relevant, quality training by providing performance, customer satisfaction and outcomes data collected during the prior year of certification. That data must meet WVVDB established guidelines.

Training programs that do not receive initial certification or recertification may appeal that decision, following the process outlined below. Appeals for reconsideration must be submitted to the Board staff at least 10 days in advance of the next scheduled board of directors meeting following notification. Should fewer than 10 days remain prior to the next board meeting, the appeal will be considered at the next subsequent meeting in which the 10-day notice requirement can be met. If the issue is not resolved satisfactorily, the WVVDB will submit the application to the Virginia WIA Division for reconsideration.

### Procedure

#### Solicitation and Application Process

1. Potential workforce training providers will be recruited on an ongoing basis. Application for certification may be made at any time. Board staff will provide to any interested applicant, by mail or electronically necessary, information and materials, including official application and program details.
2. Applicants must complete Part I of the application concerning the organization. For **each** certificate or degree program under consideration, the applicant also must complete Part II

for certification and Parts II and III for recertification. Parts II and III also must be completed for each stand-alone course leading to a competency or skill recognized by employers; or a training regimen that provides individuals with additional skills or competencies but not listed as part of an approved program.

3. To receive recertification, training providers must annually account for any changes in cost, course work or other information pertinent to the program.
4. Providers must collect performance, customer service and outcomes data which must be submitted with applications for recertification. Such data must meet WVVDB established guidelines (see Attachment A). Data not meeting the guidelines will require documentation to support why a program should be recertified.

#### Initial Training Provider Certification Eligibility Criteria

The WVVDB selects training providers based on factors such as, but are not limited to, overall performance; industry skill standards; performance for significant customer groups (which includes wage replacement rates for dislocated workers); performance of specific provider sites, current information on employment and wage trends and projections; and duration of training programs. To receive certification in Virginia LWIA III, a training provider

Must be:

A post-secondary educational institution approved to operate in Virginia, whose programs are approved by an accrediting agency recognized by the Federal Department of Education as being eligible under Title IV of the Higher Education Act;

**OR**

An entity that provides programs registered under the National Apprenticeship Act.

**OR**

Offer a training program which leads to industry-recognized certification as meeting the standards necessary for approval or accreditation by that industry. (e.g., Microsoft Certified Engineer, CISCO Certification, ASE for auto mechanics, etc.) and be approved to operate in Virginia under applicable provisions of the Code of Virginia.

**OR**

Offer a credit or non-credit customized training program provided by a Virginia community college, public school system or other local public vocational technical school, in partnership with area employers for their emerging and incumbent worker needs. (Training programs with active employer advisory boards would qualify under this criterion.)

**OR**

Can demonstrate to WVVDB that the program for which it is seeking certification is germane to local workforce development needs and provides quality training.

**AND**

Provide training for industries, occupations and/or skills as designated by the WVVDB as a priority and identified in the most recent local occupational demand plan;

**OR**

Document sufficient demand which such training will meet.

**AND**

Applicants also must provide both

- 1 A written nondiscrimination policy

**AND**

- 2 Documentation that the organization's facilities are ADA compliant.

Priority Designation Criteria: To be designated a Tier I Priority provider an institution or organization must meet the above criteria and provide training leading to

- a priority occupations as designated by the WVVDB

- entry-level employment paying a self-sufficient wage
- an occupation that is part of a career ladder
- a recognized credential or the eligibility to obtain a recognized credential

Further the training must be available at a reasonable cost in a timely, without imposing undue financial or other burden to the participant.

All other providers who meet the general eligibility but not the Tier I Priority criteria will be designated Tier II. Participants wishing to utilize Tier II providers must obtain a waiver prior to entering training.

On-the-job training or customized training as defined in WIA Section 101, does not meet the qualifications for training provider certification.

Pre-vocational skill training – such as the development of learning skills, communication skills, interviewing skills, punctuality, personal maintenance skills and professional conduct – and stand-alone literacy/basic skills education are to be treated as intensive services under WIA and not necessarily included in the certification process for training providers [Section 134, (d) (3) (C) (vi)].

### Appeals Process

Should certification be denied, the applicant will be notified in writing. The applicant shall have thirty (30) calendar days from the date the denial notification was mailed to file a request for reconsideration to the WVDDB. The appeal request must be submitted in writing and signed. At a minimum, the appeal must identify the training program and location(s) denied and must clearly state the reasoning for the appeal.

Within thirty (30) calendar days of receipt of the request for reconsideration, the LWIB shall review the request and issue a written decision that either upholds or reverses the original decision. Instances for a reversal may include, but shall not be limited to, an administrative error or instances in which additional information submitted by the training provider changes the basis on which the original decision was issued.

#### A. Reversal by WVDDB

1. If the WVDDB reverses the prior decision, the WVDDB shall enter the training provider into the Virginia Training Provider Network (VTPN) system. The WVDDB shall also notify the training provider in writing that they have reversed their original decision and that the list inclusion request has been submitted to the VEC through the VTPN.
2. If the WVDDB fails to act during the 30-day time period described above, the initial decision shall automatically be reversed.

#### B. WVDDB Appeal Denial

1. Procedure Before the Administrative Law Division

If the WVDDB affirms its original decision, the provider shall have the option of filing an appeal of the WVDDB decision with the VEC Administrative Law Division. Such a filing must be made within ten (10) days of the date of mailing of the WVDDB's determination. The VEC Chief Administrative Law Judge or his designee shall conduct a hearing at which the training provider and LWIB will be allowed to present their cases, based on the issues presented in the original appeal to the LWIB. The VEC shall provide notification that an appeal has been filed and shall also issue a hearing notice at least ten (10) calendar days before the hearing providing information on the hearing's date and time. All hearings shall be held at the VEC's Administrative Office in Richmond, VA. A hearing may be held telephonically if agreed to by all interested parties.

The Chief Administrative Law Judge or his designee will issue an independent decision that sets out the relevant facts of the case, and decides the issue or issues appealed. A written decision will be issued to the training provider and other interested parties. If the Chief Administrative Law Judge or his designee reverses the decision of the LWIB, the LWIB shall comply with the decision in a prompt and efficient manner. The procedures outlined in the

preceding Policy 00-7 for certifying training programs, inclusion of the training program on the statewide list, and written notification to the training provider shall be followed.

The Administrative Law Division's decision will be final.

## 2. Burden Of Proof

- a. In cases involving the denial of an initial certification or re-certification, the burden shall be upon the training provider to prove, by a preponderance of the evidence, that the certification should have been granted.
- b. In cases involving decertification of a training provider for intentionally supplying inaccurate information or for substantially violating any requirement under the Workforce Investment Act, the burden shall be upon the LWIB to prove, by a preponderance of the evidence, that the decision to decertify was appropriate.

## Policy and Procedure

<b>Title:</b>	Out-of-area Assistance and Relocation	<b>Number:</b>	03-113
<b>Effective Date:</b>	April 4, 2003	<b>Revisions:</b>	

### Purpose

Federal regulations provide that reimbursements for out-of-area job search and relocation may be provided to adults and dislocated workers while in intensive and training services. The purpose of this policy is to allow individuals who are interested in leaving the area to expand their job search to other areas of the country or to help adults and/or dislocated workers with relocation expenses associated with accepting a job out of the area. All out of area assistance and relocation is subject to funding availability.

### Policy

#### Out-of-Area Job Search

Out of area job search reimbursement may be provided to adults and dislocated workers who have job interviews scheduled out of the area. The WVVWDB requires that verification be received from the company interviewing the participant prior to the interview. The verification must state the position, time and date of interview.

Out-of-area job-search reimbursement may be paid as follows:

1. If an individual must travel 50 to 175 miles for an interview, the WVVWDB will reimburse for mileage only.
2. If an individual must travel more than 175 miles to attend an interview, the WVVWDB may reimburse for food and lodging in addition to mileage.
3. The maximum allowable mileage for reimbursement is 1000 miles.
4. Mileage will be reimbursed at a rate of 32.5 cents per mile.
5. Total out-of-area job search assistance funds available to each participant are limited to \$500.00.
6. All out of area job search reimbursements will be paid only from actual receipts. Lodging reimbursement is at the discretion of the program operator but may not exceed standard rates of lodging in the area where the interview is to occur.

#### Relocation

Relocation reimbursement may be provided to adults and dislocated workers who have accepted positions that require them to move from their present residence. Since this policy is to help reimburse the cost of moving personal property from one residence to another, the WVVWDB will reimburse for 90% (not to exceed \$2500.00) of the necessary expenses.

## Policy and Procedure

<b>Policy Name:</b>	Needs-related Payments	<b>Policy Number:</b>	03-114
<b>Effective Date:</b>	April 4, 2003	<b>Revised:</b>	April 7, 2006 October 6, 2006

### Purpose

Needs-related payments provide financial assistance to participants for the purpose of enabling individuals to participate in training and are one of the supportive sections authorized by WIA Section 134(e)(3).

### Policy

Federal regulations provide that payments based on need (Needs-related Payments) may be provided to adults and dislocated workers who are unemployed and who cease to qualify for unemployment compensation. The purpose of these payments is to enable these individuals to participate in training programs under the WIA.

### Procedure

#### 1. Dislocated Worker Needs-related Payments

A dislocated worker who has ceased to qualify for unemployment compensation may be eligible to receive needs-related payments. According to WIA rules and regulations, a dislocated worker is eligible to receive needs-related payments if "a worker was enrolled in training services by the end of the thirteenth week after the most recent layoff that resulted in a determination of the worker's eligibility for employment and training activities or, or later, by the end of the eighth week after the worker is informed that a short term layoff will exceed six months." The level of the needs-related payment made to a dislocated worker will be \$100 a week *or* the weekly Unemployment Insurance amount, whichever is less. To be eligible to receive needs-related payments, a DLW participant must have a documented need, as reflected on the Needs Determination/Needs-related Payments or Supportive Services Form. Needs-related payments will be based on weekly attendance.

#### 2. Adult Needs-related Payments

The Needs-related Payment Policy of the Western Virginia Workforce Development Board for adults is designed to provide payments to participants based upon individual documented need to enable the individual to participate in training.

To be eligible to receive needs-related payments, an adult participant must have a documented need, as reflected on the Needs Determination/Needs-related Payments or Supportive Services Form. This form is to be completed by the case manager on adult participants as a determination of necessity for needs-related payments. The maximum needs-related payment allowable for an adult participant is \$100 per week; the minimum needs-related payment allowed for an adult participant is \$50 per week. Needs-related payments will be contingent on weekly attendance. In addition, both adult and dislocated worker participants who are seeking needs-related payments must not be:

- a. Employed;
- b. Enrolled in or receiving internship, work experience or on-the-job training at least three days per week;
- c. Receiving out-of-area job search/relocation allowance;
- d. Receiving supportive services in programs under WIA or Trade Act; or
- e. Receiving unemployment compensation.

Needs-related payments are considered a training stipend or allowance and not an entitlement and available only as funding permits. Payments are cash payments made directly to participants, based on documented need and within contract limitations. Individual need must be determined, documented, and paid at a rate not to exceed the above-specified limitations. Case managers will ensure that the appropriate documentation of the need and amount of payment are the result of objective assessment and are documented in the participant's Individual Employment Plan (IEP). Needs-related payments supporting documentation of need must include a copy of the weekly attendance sheet and a copy of the needs-related payment documentation form.

A participant may be eligible to receive weekly needs-related payments for weeks in which the participant had satisfactory training attendance as determined by the program operator and based on the individual participant's training schedule.

3. Cost Limitation.

The local WWWDB limits needs-related payments to no more than \$2,000 per participant within a twelve-month period, except as approved by the WWWDB president. Funding of training, supportive services and needs-related payments may not exceed a total of \$6,000 in a 12-month period. (See Policy Nos. 03-106 Individual Training Accounts, 03-114 Needs-Related Payments, and 03-116 Supportive Services.)

All WIA registrants will be made aware of any excess cost of training not covered by the program and for which they will be responsible. Program operators are expected to work closely with participants to determine the individual's ability to contribute to the cost of training and negotiate a funding plan that will adequately meet the needs of the participant while using WIA funding in the most efficient manner possible.

4. Waivers:

A waiver to the above maximum specifications may be requested from WWWDB president on a case-by-case basis. The necessity for waiver must be sufficiently justified documented in order for a waiver to be approved.

## Policy and Procedure

<b>Title:</b>	Customized Training	<b>Number:</b>	03-115
<b>Effective Date:</b>	April 4, 2003	<b>Revisions:</b>	

### Purpose

The Western Virginia Workforce Development Board, in compliance with Workforce Investment Act (WIA), may provide customized training for eligible adults and dislocated workers in Area III. Customized training is designed to meet the special requirements of an employer or group of employers. The training is conducted with a commitment by the employer(s) to employ, or in the case of those who are currently employed, to continue to employ participants after successful completion of the training program. The Western Virginia Workforce Development Board (WVWDB) customized training program extends education and training resources to the private sector for the development of a well-trained and skilled workforce.

### Procedure

#### Employer Commitment

WIA funded customized training requires the employer(s) to pay for not less than 50% of the cost of the training. Commitment must be included with the employer's request for customized training. Participating employers must commit to employ, or in the case of those who are currently employed, to continue to employ participants after successful completion of the program. Participating employers must commit to paying wages at a minimum of \$8.00 per hour (not including incentive or benefit packages) for participants employed after successful completion of the program.

#### Participant Eligibility

WIA funded customized training programs are to provide training to those individuals who have been determined eligible for adult or dislocated worker training services. Training for an individual who is currently employed may be provided when: the employee is not earning a self-sufficient wage, as determined by the WVWDB, and the training relates to the introduction of new technologies, introduction of new production or service procedures, upgrade to new jobs that require additional skills, workplace literacy, or other appropriate training approved by the WVWDB President.

#### Materials and Equipment

Approval to purchase any materials, equipment, property, etc. must be received from the WVWDB prior to purchase being made. All materials, equipment and other property purchased with WIA funds shall remain the property of the WVWDB.

#### Customized Training Agreement

All customized training agreements must be approved by WVWDB staff prior to the commencement of the customized training Activity.

Western Virginia  
Workforce Development Board

### Customized Training Approval Request Form

The following information must be provided to the Western Virginia Workforce Development Board for customized training funding considerations under WIA:

<b>1. Organization</b>			
<b>2. Address</b>			
<b>3. Contact/title</b>		<b>4. Phone</b>	
		<b>5. Fax</b>	
<b>6. Email</b>			
<b>7. Cost</b>	Total cost of the training	Total WIA funds requested	Total employer contribution
	\$	\$	\$
<b>8. Description</b>	Need for training		
	Occupational demand for trained individuals		
	Type of training to be provided		
	Duration		
	Training site		
	Target group for training		
	Number of individuals to receive training		
<b>9. Training Plan</b>	Objectives of the training		
	Specific skills to be learned		
	Method of Instruction		
	Measurement of objectives and skill attainment for trainees		
<b>10. Qualifications of training staff</b>			
<b>11. Employer involvement/commitment</b>	Curriculum design meeting needs of the employer		
	Commitment of the employer to employ participants who successfully complete the training		
<b>12. Budget</b>	Provide a narrative explaining how the funds will be utilized		
	Itemized budget.		

## Policy and Procedure

<b>Name:</b>	Supportive Services	<b>Number:</b>	03-116
<b>Effective Date:</b>	April 4, 2003	<b>Revisions:</b>	October 1, 2004 April 7, 2006 October 6, 2006

### Purpose

To establish guidelines for provision of supportive services using WIA funds.

### Reference

P.L.105-220 Workforce Investment Act (WIA) sections 101(46) and 134(e)(2) and (3).

### Policy

Supportive services may be provided only to WIA clients who are participating in WIA programs and who are unable to obtain supportive services through other programs. No program operator may provide supportive services funded by a WIA program until other local area programs (which generally provide the supportive service needed by the client) have been contacted. If a non-WIA program is capable of providing the supportive service needed by the client, a referral will be made by the program operator. However, if alternative resources cannot be found, then supportive services may be provided using WIA funds, if it is necessary to enable eligible individuals to participate in intensive services, training, or other program activities under WIA.

Supportive services may include such services as:

- 1 Transportation;
- 2 Child care;
- 3 Assistance with the purchase of uniforms for occupational skills training, or appropriate work attire for work activities;
- 4 Training/work-related tools, and other reasonable expenses required to keep a participant in intensive services or training, or
- 5 Other program activities – for example, auto repairs, test fees, rent, etc.

Supportive services may be provided either in kind or through cash assistance. In order to obtain payment for any supportive service, the participant or the service-providing vendor must provide appropriate documentation. Such documentation will include, at a minimum, the following:

1. Justification for the need for supportive services (which must include training attendance records, documentation of miles traveled, receipts, etc.);
2. A description of the supportive service provided;
3. A list of all organizations contacted and why supportive services could not be obtained through such programs; and
4. An invoice or receipt for payment received (itemized and dated) for the supportive service.

Supportive services are intended as temporary assistance and should not be considered or provided as long-term support. Provision of supportive services is not guaranteed and is contingent on availability of funding. All payments must be made directly to the vendor.

The following are special regulations established by the Western Virginia Workforce Development Board to govern the provision of supportive services:

- 1) **Travel Allowance:**

A travel allowance may be paid for travel to and from the training facility. Payment will be reimbursed at a rate of 32½ cents (\$0.325) per mile for actual mileage only. The maximum per-week allowance shall not exceed \$50 as documented by usage of a travel voucher.

Program operators who have participants who travel unusually long distances to and from a training facility may request a waiver to increase the maximum weekly allowable amount for those participants. The written request must document the need for the increase in the travel allowance.

Travel allowances will be paid for actual days participated only, and must be documented by an attendance record, which is signed by the appropriate activity representative at the facility and by the participant. Actual round-trip miles per day must be reported correctly by the participant. Attendance documentation must be kept, and in no instance will payment be made in advance. The participant will be required to sign a receipt documenting payment received for the applicable period.

**2) Child Care:**

To receive child-care payments, participants must show evidence of need, and such payments can be made only when participants cannot afford to pay the child care themselves. The maximum amount of child care that can be paid is the amount charged by the child-care provider, ~~or~~ the rate shown in the chart below, or the co-payment whichever is the lower. Payment will be made only for those days the participant attends training.

To document the actual cost of child care that has been provided, the participant must furnish a Documentation of Child Care Form, which gives the dates and hours per day of child care, and the signature of the child-care provider (including date form is signed) and the cost of the child care provided. As stated above, attendance documentation must be kept, and in no instance will payment be made in advance.

Maximum Child Care Payment Amounts	Day Care Centers		Private Provider	
	Daily Rate	Weekly Rate	Daily Rate	Weekly Rate
Age				
Infant (0-2)	\$ 39	\$ 155	\$ 23	\$ 80
Toddler (2-5)	\$ 30	\$ 150	\$ 23	\$ 77
School Age (6-12)	\$ 25	\$ 111	\$ 17	\$ 77
Before School		\$ 43		\$ 35
After School		\$ 63		\$ 40
Before & After		\$ 81		\$ 73

**3) Assistance with Training Uniforms, Work Attire and Related Tools:**

To receive assistance with training uniforms or appropriate work attire and training/work-related tools, the participant must show evidence of need and the inability to pay for the items himself or herself. The amount of assistance that can be paid is set at a maximum of \$200 for training uniforms and/or appropriate work attire, and \$250 for training/work-related tools. Documentation will consist of a completed Supportive Service Documentation form and an invoice (itemized and dated) for the items purchased. The maximum dollar amounts listed above are for the entire length of WIA participation for each client. A waiver to the above maximum specifications may be requested on a case-by-case basis. The need for additional assistance must be sufficiently justified in order for a waiver to be considered.

**4) Other:**

Other supportive services required to help an individual remain in training or be able to successfully complete program participation, and which the trainee cannot afford, may be provided on a case-by-case basis. Each situation will be evaluated as the need arises, and determination of whether support is needed is at the discretion of the WIA Program Operator. Proper documentation and verification are required.

**5) Limitations:**

The amount of supportive services available to each participant will vary based on individual circumstances, but is limited as follows:

- travel allowance is limited to no more than \$2,000 per participant within a twelve-month period, except as approved by the WWWDB president.
- Child care payments are limited to no more than \$2,000 per participant within a twelve-month period, except as approved by the WWWDB president.
- Other supportive services are limited to no more than \$2,000 per participant per 12-month period. No single transaction may be in excess of \$500.

Funding of training, supportive services and needs-related payments may not exceed a total of \$6,000 in a 12-month period. (See Policy Nos. 03-106 Individual Training Accounts, 03-114 Needs-Related Payments, and 03-116 Supportive Services.)

All WIA registrants will be made aware of any excess cost of training not covered by the program and for which they will be responsible. Program operators are expected to work closely with participants to determine the individual's ability to contribute to the cost of training and negotiate a funding plan that will adequately meet the needs of the participant while using WIA funding in the most efficient manner possible.

6) Waivers:

A waiver to the above maximum specifications may be requested from WWWDB president on a case-by-case basis. The necessity for waiver must be sufficiently justified documented in order for a waiver to be approved.

## Policy and Procedure

<b>Title:</b>	Procurement of Goods and Services	<b>Number:</b>	03-117
<b>Effective Date:</b>	April 4, 2003	<b>Revisions:</b>	

### Purpose

The purpose of this procedure is to establish guidelines procurement of goods and services.

### Reference

- *This procedure is adopted from the Procurement Policy of the current fiscal agent, the City of Roanoke. When the WVVDB receives formal designation as fiscal agent, this procedure will be revised to reflect practices most suitable to the smooth operation of the WVVDB and its programs.*

### Procedure

#### Requirement for Bidding

##### A. Formal Bid:

Any contract with a non-governmental contractor for the purchase or lease of goods or for the purchase of services or construction, the consideration for which is expected to exceed fifty thousand dollars (\$50,000), shall be awarded to the lowest responsible bidder. The highest responsible bidder is chosen in cases such as where the WVVDB is leasing or selling property or awarding concession rights after public advertisement and competition. With respect to bids for any purchase, work or improvement, except grants, costing more than fifty thousand dollars (\$50,000), but less than \$75,000, the WVVDB Executive Committee shall have the authority to award or reject bids. Bids costing more than \$75,000 must be awarded or rejected by full Board of Directors.

The President has the authority to enter into grant agreements for up to \$25,000.

##### B. Informal Bid:

Any contract with a non-governmental contractor for the purchase or lease of goods or for the purchase of services or construction, the consideration for which is not expected to exceed fifty thousand dollars (\$50,000), may be bid and awarded to the lowest responsible bidder (or highest responsible bidder where applicable). The Executive Committee has the authority to determine if an item expected to be less than \$50,000 is to be bid. The Executive Committee shall have the power to reject any and all bids. Small-dollar item purchase procedures shall provide for competition whenever possible.

##### C. Thresholds

#### **Small Purchases** (Goods and Services, other than Professional Services)

- Up to \$2,500: Agency obtains one documented quote.
- Over \$2,500 to \$10,000: Agency solicits a minimum of three valid sources (by telephone, in writing or electronically). It is strongly encouraged to expand the solicitation list to include a minimum of one minority and/or women-owned businesses.
- Over \$10,000 to \$50,000: Purchasing solicits a minimum of four valid sources and expands the solicitation list to include a minimum of two minority and/or women-owned businesses when available.

#### Competitive Sealed Bidding or Competitive Negotiation

Over \$30,000 (may be used for lesser amounts): Purchasing solicits a minimum of six valid sources in writing and expands the solicitation list to include at least three minority and/or women-owned businesses when available. Use one of the following methods:

- Competitive sealed bidding
- Competitive negotiation. Prior approval by the Board is required.

### Exceptions to Competitive Procurement

- Emergency: In an emergency requiring immediate action, the President may make any purchase without previously advertising for or receiving bids therefore. Every such case shall be reported by the President in writing to the board at its next regular meeting with a statement of the facts constituting such emergency.
- Sole Source: Obtain and document a quote up to \$10,000. Over \$10,000, a written quotation must be obtained. Requires written justification approved in advance by the Board Chair. Over \$10,000 requires approval from the Executive Committee. Over \$50,000 requires approval of full Board of Directors.

### Performance Bond

Performance bonds are required for formal bid purchased when required by law. Such bonds are employed in cases where there is significant potential for loss to the WVVWDB resulting from unacceptable performance or default. Bid bonds may be required for purchases that are expected to exceed \$100,000.

### Pre-Bid Conferences

For complex equipment, supplies or repair needs, pre-bid conferences with prospective bidders are desirable after draft specifications have been prepared. Such conferences help to detect unclear provisions and tend to widen competition by removing unnecessarily restrictive language. Conferences on purchasing bids are held by the President and attended by a member of the Executive Committee, and if deemed necessary, the Board Chair or his designated representative.

### Bid Opening

Upon receipt of the bids from the vendors, the President does the following:

- Bids are opened at the time and place specified in the advertisement for bids.
- Bids arriving after the time designated for the opening shall not be considered. Telephone, fax or e-mail responses on formal bids shall not be accepted.
- All bids shall be opened publicly with bids tabulated and made available, upon request, for inspection by interested parties.
- If there is a protest of bid specifications or specific questions, bids will be opened and the bidder protesting will be permitted one meeting to discuss the matter in detail. Bid protests are conducted in the manner prescribed in the Procurement Section of the Code of the City of Roanoke.

### Bid Award

Formal bid awards for items over \$50,000 but less than \$75,000 are made only by the Executive Committee. In preparation for the Chair's action, and upon the Chair's approval, the following is completed:

- The President designates a bid committee to prepare a report on the acquisition of the supply, material or service concerned in the bid. This document is sent to the Executive Committee for approval. After the Executive Committee's approval, the award is made by the President, and the purchase order is issued.

Formal bid awards for items over \$75,000 are made by the Board of Directors. In preparation for Board action, and upon Board approval, the following is done:

- The President designates a bid committee to prepare a report on the requisition of the supply, material or services concerned in the bid. This document must have the concurrence of the Chair.
- After Board approval of the award, the administrative assistant sends a copy of the approved ordinance to the successful bidder, notifying them of the award. The President then sends the purchase order.

### Bid Files

The WVVWDB administrative office maintains a complete control file on all bids for the WVVWDB. Files are maintained for five (5) years, or as otherwise directed.

### Competitive Negotiation - Professional Services

Competitive negotiation is a procurement method which includes the following:

- Issuance of a written request for proposal indicating general terms, specifying factors for evaluating the responses and containing other applicable terms and conditions including any

unique capabilities or qualifications which may be required. The President is responsible for obtaining the concurrence of the Executive Committee prior to announcing proposal invitations.

- Public Notice of request for proposals at least ten (10) days prior to the date set for the receipt of proposals by posting of public notices or by publication in a newspaper of general circulation or both. Proposals may be solicited directly from potential contractors.
- The President or his/her designee, other appropriate Board appointed officer or other designee of the WVVDB shall engage in individual discussions with all offerors deemed fully qualified, responsible and suitable on the basis of initial responses with an emphasis on professional competence to provide required services. Repetitive interviewing shall be permissible. These discussions may encompass non-binding estimates of total project costs including design, construction and life cycle costs. Methods to be utilized in arriving at the price for services may also be discussed. Proprietary information from competing offerors shall not be disclosed to the public or to competitors.
- At the conclusion of discussions as stated above, on the basis of evaluation factors published in the request for proposals, the two (2) or more offerors whose professional qualifications and proposed services are deemed most meritorious shall be ranked in order of preference.
- Negotiations shall then be conducted, beginning with the offeror ranked first. If a contract satisfactory and advantageous to the WVVDB can be negotiated at a price considered fair and reasonable, the award shall be made to that offeror. Otherwise negotiations with the first ranked shall be terminated and negotiations with the offer ranked second, and so on until a contract can be negotiated at a fair and reasonable price.
- Should the President determine in writing and in its sole discretion that only one offer is fully qualified or that one offer is clearly more highly qualified and suitable than the others under consideration, a contract may be negotiated and awarded to that offer.

#### Performance Bond

Performance bonds are required for formal proposals when required by law or order of the Executive Committee. Such bonds are employed in case where there is significant potential for loss to the WVVDB resulting from unacceptable performance or default.

#### Pre-Proposal Conferences

For complex services, pre-proposal conferences with prospective proposers are desirable after draft specifications have been prepared. Such conferences help to detect unclear provisions and tend to widen competition by removing unnecessarily restrictive language. Conferences on requests for proposals are called by the President and attended by a Board representative, and if deemed necessary, the Board Chair or his designated representative.

#### Proposal Opening

Upon receipt of the proposals from the vendors, the President does the following:

- Proposals which have been appropriately received are opened at the time and place specified in the advertisement for proposals.
- Proposals arriving after the time designated for the opening shall not be considered. Telephone, fax or e-mail quotes on formal proposals shall not be accepted.
- All proposals shall be opened publicly, but not read.
- If there is a protest of proposal specifications or specific questions, proposals will be opened and the proposer protesting will be permitted one meeting to discuss the matter in detail.

#### Proposal Award

Formal proposal awards that cost more than \$50,000 but less than \$75,000 are made by the Executive Committee. In preparation for Executive Committee action and upon Board approval the following is done:

- The President designates a committee to prepare the Executive Committee report on the acquisition of the item concurred in the proposal.
- After the Executive Committee approval, the award is made by the President either by purchase order or contract.

Formal proposal awards for over \$75,000 value are made only by Board of Directors. In preparation for board action, and upon board approval, the following are to be done:

- The Executive Committee designates a committee to prepare the report on the acquisition of the item concerned in the proposal. This document must have the concurrence of the Board.
- After Board approval of a proposal award, the administrative assistant sends a copy of the approved ordinance to the successful proposer, notifying them of the award. The President then sends a purchase order and/or contract.

#### Proposal Files

The WWWDB administrative office maintains a complete control file on all proposals. Files are maintained for five (5) years, or as otherwise directed.

## Policy

<b>Title:</b>	Discrimination and Complaint Policy	<b>Number:</b>	03-118
<b>Effective Date:</b>	August 10, 2003	<b>Revisions:</b>	

### Purpose

To communicate the requirement of the Western Virginia Workforce Development Board's Workforce Centers, Program Operators and Training Providers to adopt and publish procedures providing for the prompt and equitable resolution of complaints alleging violation of the Workforce Investment Act's nondiscrimination and equal opportunity provision.

### Reference

- P.L. 105-220, Workforce Investment Act, Section 188, (a) (2) (4) (5) 29 CFR Part 37, Department of Labor, Office of the Secretary, Implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Investment Act: Final Rule, November 12, 1999.

### Policy

The Western Virginia Workforce Development Board (WVWDB) shall ensure nondiscrimination and equal opportunity in admission or access to, opportunity or treatment in, or employment in, the administration of or in connection with any program or activity funded in whole or in part with WIA funds. Any person who believes he or she has been subjected to discrimination based on race, color, religion, sex, national origin, age, disability, political affiliation or belief, and for beneficiaries only, citizenship, or participation in WIA, has the right to file a complaint within 180 days of the alleged discrimination. The person has the right to file a complaint with the Equal Opportunity Officer, Western Virginia Workforce Development Board, 108 North Jefferson Street, Suite 809, Roanoke, VA 24016, or directly with the Director, Civil Rights Center (CRC), U.S. Department of Labor, 200 Constitution Avenue, N.W., Room N-4123, Washington, D.C. 20210. If the complainant elects to file a complaint with the Western Virginia Workforce Development Board, the WVWDB shall have 90 days to process a complaint and issue a decision. If the WVWDB does not provide a written decision within 90 days of the filing of the complaint, the complainant need not wait for a decision to be issued, but may file a complaint with the CRC within 30 days of the expiration of the 90-day period. If a complainant is not satisfied with the WVWDB's resolution, the complainant may file a complaint with the CRC. Such complaint must be filed within 30 days of the date the complainant received the Notice of Final Action from the WVWDB.

The Western Virginia Workforce Development Board has designated the President as their Equal Opportunity (EO) Officer, who will be responsible for adopting and publishing complaint procedures, and ensuring that they are followed. To communicate the discrimination complaint policy, "Equal Opportunity Is the Law" posters in English and Spanish shall be placed in prominent locations which are accessible to applicants for employment, applicants for program services and/or funding, participants, employees, terminees and other interested parties. The poster contains a nondiscrimination and equal opportunity statement, as well as information about filing a complaint.

The Western Virginia Workforce Development Board's Workforce Centers, Program Operators and Training Providers shall include in orientations to employees and/or participants a discussion of their rights under the nondiscrimination and equal opportunity provisions of WIA and the right to file a complaint of discrimination with either the local workforce investment board (LWIB) or the CRC. Communication of policy shall be documented on a notification instrument for employees and applicants/participants, and retained in individuals' files. The WVWDB shall ensure audiotape access to the tape "Equal Opportunity Is the Law" for individuals with visual disabilities, as well as persons who have difficulty reading and/or comprehending written materials. Where a significant portion of

eligible population may need service or information in a language other than English or Spanish, the WVVWDB shall provide the initial notice and other material in the needed language to the extent possible.

### Intimidation and Retaliation Prohibited

Consistent with 29 CFR, 37.11, intimidation and retaliation against individuals for having filed a complaint; opposing a prohibited practice; furnishing information; assisting or participating in any manner in an investigation, review, hearing or any other activity relate to administration of, exercise of authority under, or privilege secured by, the nondiscrimination and equal opportunity provisions, of WIA is prohibited. In accordance with 29 CFR 37.11, complaints may be filed alleging intimidation and retaliation.

### Procedure

#### Filing a Discrimination Complaint at the Local Level

A complaint of discrimination may be filed with the WVVWDB EO Officer or the State WIA EO Officer. A complaint must be filed within 180 days of the alleged discrimination. The complaint may be filed by the individual or on behalf of the individual by an authorized representative. A complaint must be filed in writing and signed by the complainant or by his or her authorized representative. It is recommended (but not required) that the complaint be filed on a U.S. Department of Labor (DOL) Complaint Information Form (found at the web page addresses listed below), or on the WVVWDB EO Complaint Form (which is attached).

The English-language website is [www.vec.state.va.us/pdf/jscomplaint.pdf](http://www.vec.state.va.us/pdf/jscomplaint.pdf).

The Spanish-language website is [www.vec.state.va.us/pdf/jsspancomplaint.pdf](http://www.vec.state.va.us/pdf/jsspancomplaint.pdf).

The complaint document must contain the following information:

- complainant's name and address, or other means by which the complainant may be contacted;
- identification of individual(s) and/or organization(s) responsible for the alleged discrimination;
- a description of the complainant's allegations to:
  1. determine WVVWDB's jurisdiction of the complaint,
  2. timeliness of the complaint,
  3. specific prohibited basis of the alleged discrimination (i.e., race, sex, etc.), and
  4. apparent merit of the complaint.

The Western Virginia Workforce Development Board's EO Officer is responsible for ensuring publication of the name, title, address, telephone number, and TDD number of the EO Officers or other individuals responsible for receiving complaints.

### Time Frames

The Western Virginia Workforce Development Board's EO Officer shall notify complainants, in writing, of the specific time frames for processing a complaint of discrimination, as follows:

- A. If the complainant elects to file with the WVVWDB, the WVVWDB shall have 90 days to process the complaint and provide a determination. Virginia's discrimination complaint process includes 60 days for the LWIA to investigate and 30 days for a review at the State level, if warranted.
- B. If the complainant elects to file with both CRC and the WVVWDB, the complainant shall be informed that the WVVWDB has 90 days to process the complaint and that CRC shall not investigate the complaint until the 90-day period has expired.
- C. If by the end of 90 days from the date on which the complaint was filed the WVVWDB fails to issue a Notice of Final Action, the complainant may file a complaint with the Director of CRC within 30 days of the expiration of the 90-day period.
- D. Immediately upon determining that it does not have jurisdiction, the WVVWDB WIB EO Officer shall notify the complainant in writing that he or she does not have jurisdiction over the complaint, including reasons for the determination and the complainant's right to file with the Director of CRC within 30 days of the notice.
- E. The complainant shall be notified that if the complaint is not filed within 180 days of the alleged discrimination or a complaint has not been filed with CRC within 30 days of the receipt

of WVWDB's determination or expiration of the 90-day period, the Director of CRC may extend the time limits for good cause shown.

#### Processing a Discrimination Complaint

It is the responsibility of the Western Virginia Workforce Development Board's EO Officer to determine which Workforce entity has jurisdiction over the complaint. Upon determining that a Workforce partner has jurisdiction, the complaint shall be recorded in the complaint log (see "Record keeping" below) and referred to the appropriate Workforce partner for resolution in accordance with that partner's complaint processing procedures. Where the WVWDB EO Officer has jurisdiction for a complaint, he or she shall notify complainants, in writing, of the specific time frames for the processing of a discrimination complaint.

If the complainant elects to file with the Western Virginia Workforce Development Board, the WVWDB shall have 90 days to process the complaint and provide a determination. During the 90-day period, complainants may elect to participate in mediation. The choice whether to use mediation or the customary investigative process rests with the complainant.

Requests for mediation shall be referred to the WVWDB's EO Officer. If the complainant elects mediation and there is no resolution, the complaint will be referred for investigation. If mediation is not elected, the complaint shall be investigated in accordance with the WVWDB's complaint-processing procedures. Such complaint procedures shall include the following elements:

1. Initial, written notice to the complainant, and a notice that the complainant has the right to be represented in the complaint process;
2. A written statement provided to the complainant that contains a list of the issues raised in the complaint and, for each issue, a statement whether the WVWDB will accept or reject the issue, and the reasons for each rejection;
3. A period for fact-finding or investigation of the issues;
4. A 15-day period during which the WVWDB will attempt to resolve the complaint through mediation; and
5. A written Notice of Final Action provided to the complainant within 90 days of the date on which the complaint was filed, that contains the WVWDB's determination.

#### Discrimination Complaint Investigation Procedure

Within 90 days of the date a discrimination complaint is filed, an investigation shall be conducted by the Western Virginia Workforce Development Board's EO Officer or by a designee under the direction of the EO Officer, consistent with the Discrimination Complaint Investigation procedure. This procedure shall be used for any discrimination complaint for which a written and signed complaint has been received. All activities and records related to an investigation shall ensure the confidentiality of the complaint and any resulting actions. The investigation must be managed in a manner that does not have an adverse effect on the complainant or any other party related to the complaint.

#### Responding to a Discrimination Complaint

The Western Virginia Workforce Development Board's EO Officer shall sign the investigation, including determination and recommendation. The WVWDB shall provide a written determination (Notice of Final Action) of the complaint and offer resolution within 90 days of the date the complaint was filed and, for each issue filed, include:

1. the WVWDB's decision on the issue and an explanation of the reasons underlying the decision,
2. a description of the way the parties resolved the issue; and
3. a notice that the complainant has the right to file a complaint with the Director of CRC within 30 days of the Notice of Final Action if he or she is dissatisfied with the WVWDB's final action on the complaint.

#### Determinations

The Western Virginia Workforce Development Board's EO Officer shall determine at the conclusion of the investigation of a complaint whether there is reasonable cause to believe that a violation occurred. If an investigation results in a "reasonable cause" finding, the WVWDB's EO Officer shall

submit the signed investigative report, including determination and recommendation, to the State EO Officer for review within 60 days of the filing date. Based on review of the determination, the State EO Officer will determine if further review by the Attorney General's Office and the VEC Commissioner, or his designee, is warranted. If the VEC concurs with the determination, the WVWDB's EO Officer shall issue a written determination. The determination shall notify the complainant of the specific findings, the proposed remedial or corrective action, and the time in which corrective action must be completed.

Where a "no cause" finding is made, the complainant shall be notified in writing. Such a determination represents the final action of the Western Virginia Workforce Development Board's EO Officer. The WVWDB's EO Officer shall notify the complainant of his or her right to file a complaint (not an appeal) with the CRC if he or she believes the WVWDB's resolution is unsatisfactory. The complainant shall be informed that this right must be exercised within 30 days.

#### Corrective Action

If discrimination is found through the process of a complaint investigation, the respondent shall be requested to voluntarily comply with corrective action(s) or conciliation agreement to correct the discriminatory actions or conditions. Actions to correct discrimination deficiencies may include any of the following:

- Back pay, or other monetary relief (Federal funds shall not be used to provide monetary relief);
- Hire or reinstatement;
- Promotion;
- Benefits or other services denied; and
- Any other remedial or affirmative relief such as outreach, recruitment, and training to ensure equal opportunity.

#### Record Keeping

The Western Virginia Workforce Development Board shall maintain an automated or manual log of discrimination complaints to include:

- name and address of complainant;
- the basis of the complaint (i.e., race, sex, age, etc.),
- a description of the complaint;
- the date the complaint was filed;
- the disposition and date of disposition of the complaint; and
- other pertinent information.

Records pertaining to discrimination complaints, investigations, or any other such actions shall be retained for a minimum of three (3) years from the date of resolution. Information pertaining to the identity of any persons providing information related to, or assisting in, an investigation or a compliance review shall be maintained in a confidential manner to the extent possible. In the event that it is necessary that a person's identity be disclosed, the person(s) shall be protected from retaliation.

## Policy and Procedure

<b>Title:</b>	Equal Opportunity for WIA Programs	<b>Number:</b>	03-119
<b>Effective Date:</b>	August 10, 2003	<b>Revisions:</b>	

### Purpose

To communicate the non-discrimination and equal opportunity requirement of the Workforce Investment Act to the local Workforce Centers, Program Operators and Training Providers.

### Reference

- P.L 105-220 Workforce Investment Act, Section 111, (d) (2).Department of Labor, Employment and Training Administration, 20 CFR Part 652, et al., Workforce Investment Act; Final Rule, August 11, 2000.
- 29 CFR Part 37, Department of Labor, Office of the Secretary, Implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Investment Act; Final Rule, November 12, 1999
- Civil Rights Act of 1964, Title VI
- Age Discrimination Act of 1975
- Rehabilitation Act of 1973
- Education Amendments Act of 1972, Title IX

### Policy

The Western Virginia Workforce Development Board is committed to providing access to all individuals with respect to the delivery of programs and services associated with the Workforce Investment Act of 1998 (WIA), which was implemented on July 1, 2000. Section 188 of the WIA prohibits discrimination on the grounds of race, color, religion, sex, national origin, age, disability, political affiliation or belief, and for beneficiaries only, citizenship or participation in a WIA Title I financially assisted program or activity. The following requirements are taken from Regulation 29, CFR, Part 37, and must be incorporated into the systems and practices of all recipients for assurances of nondiscrimination. Any program or activity that receives federal financial assistance under WIA Title I is a recipient and therefore subject to these requirements.

### Equal Opportunity Requirements for WIA

Programs and activities funded or otherwise financially assisted in whole or in part under the Workforce Investment Act (WIA) are subject to federal equal opportunity (EO) laws and regulations based on the following:

- Title VI, Civil Rights Act of 1964
- Age Discrimination Act of 1975
- Rehabilitation Act of 1973
- Title IX Education Amendments Act of 1972
- 29 CFR Part 37
- State's Methods of Administration (MOA); and
- DOL Civil Rights Center and state policy directives

Other federal laws that impact the operations of state- and local-level WIA programs include, but are not limited to, the following:

- Immigration Reform and Control Act of 1986
- Title VII, Civil Rights Act of 1964
- Equal Pay Act
- Age Discrimination in Employment Act; and
- Americans with Disabilities Act of 1990

Consistent with the legal and regulatory requirements of WIA and the Western Virginia Workforce Development Board's Methods of Administration (MOA), the local Workforce Centers, Program Operators and Training Providers will establish and maintain a comprehensive, equal opportunity program to include written policies and procedures that cover all employment and services programs as covered by WIA. All Workforce Centers, Service and Training Providers shall ensure compliance with the Western Virginia Workforce Development Board's equal opportunity and related policies, procedures, and administrative directives and the Workforce Investment Board's Methods of Administration as applicable, including the following:

- Designation of an Equal Opportunity (EO) Officer or Liaison to coordinate the organization's WIA EO responsibilities;
- Notification of the right to file a complaint by posting "Equal Opportunity Is the Law" notices in prominent locations that are available to registrants, applicants, eligible applicants/registrants, applicants for employment, employees and interested members of the public;
- Requirement to include assurance of nondiscrimination and equal opportunity laws and regulations in contracts, cooperative agreements, memorandums of understanding, applications and other similar agreements to carry out WIA-funded programs;
- Written Nondiscrimination Policy for hiring and program participation practices, and to distribute and post these policies as required by law;
- Administration of WIA-funded programs and activities to ensure physical as well as program accessibility to individuals with disabilities, that programs are provided in the most integrated environment appropriate to individuals with disabilities, and that communications with individuals with disabilities are as effective as communications with others;
- Collection and maintenance of EO data and provision of reports on applicants, registrants, eligible applicants/registrants, participants, employees and applicants for employment;
- Compliance with the WIA Discrimination Complaint Procedures established by the WVDDB and maintenance of a log of discrimination complaints; Workforce Centers, Service and Training providers shall promptly notify the WVDDB EO Officer of any complaints or lawsuits filed against it alleging discrimination;
- Furnish all necessary books, records, accounts, etc. to the WVDDB for purposes of investigation to ascertain compliance with these provisions; and
- Be responsible for, and agree to indemnify and hold harmless, the Commonwealth of Virginia and the Western Virginia Workforce Development Board from all losses, damages, expenses, claims, demands, suits and actions brought by any party against the Commonwealth of Virginia or the Western Virginia Workforce Development Board as a result of a party's failure to comply with these provisions.

## Procedure

<b>Title:</b>	Discrimination Complaint Procedure	<b>Number:</b>	03-120
<b>Effective Date:</b>	August 10, 2003	<b>Revisions:</b>	

### Purpose

This procedure shall be used for the investigation of any equal opportunity discrimination complaint against a recipient of USDOL funds, for which a written and signed complaint of discrimination has been received.

### Reference

P.L. 105-220, Workforce Investment Act, Section 188, (a)(2)(4)(5) 29 CFR Part 37, Department of Labor, Office of the Secretary, implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Investment Act: Final Rule, November 12, 1999.

### Policy

#### Discussion

#### CRC vs. WVVWDB complaint handling

Any person alleging discrimination under Section 188 of the Workforce Investment Act has the option of filing his or her complaint with the Western Virginia Workforce Development Board (WVVWDB) or with the CRC. The WVVWDB's EO Officer has the obligation to inform the complainant of the option. Should the complainant elect to file with CRC, the WVVWDB's EO Officer should log the complaint and assist the complainant in preparing CRC's Complaint Information Form.

#### Types of complaints

A complaint falls into of three categories, depending on its source:

1. Individual – a complaint that alleges discrimination against the person filing the complaint;
2. Third party – a complaint filed by a group or an individual that alleges discrimination against another group or individual. The WVVWDB's EO Officer accepts such complaints if the complainant:
  - a. can provide the name and telephone number (or other means of contact) of the injured party and the injured party is willing to file a complaint; or
  - b. is an organization, such as the National Association for the Advancement of Colored People (NAACP), and can provide names and telephone numbers of the injured parties; or
  - c. is an authorized representative of an injured party.
3. Class action – a complaint filed by one or more individuals that allege discrimination, not only against themselves, but also against a group of similarly situated individuals.

To file such a complaint, the complainant must have standing in the class – that is:

- be a member of the class, and
- be adversely affected by the alleged discrimination.

The purpose of a class action is to secure a remedy that eliminates:

- the discrimination against the person(s) named in the complaint,
- the discrimination against other injured parties, regardless of whether they have been individually named in the complaint, and
- the practice of policy that caused the discrimination.

#### Legal theories of discrimination

There are three major legal theories of discrimination that can be used to prove illegal discrimination under WIA and other civil rights laws. These are:

- disparate treatment
- disparate impact
- failure to provide a reasonable accommodation

Disparate treatment means treating someone differently because of his or her race, sex, age, or other basis *prohibited by law*. To prove a case of discrimination under this theory, it is necessary to examine *why* the person was treated differently and whether a *prohibited factor* was involved.

Disparate impact is based on the premise that discrimination can occur *even if no one is treated differently*. The use of a specific requirement in the decision-making process (for purposes of eligibility, selection, or placement decisions; monetary and non-monetary determination; disciplinary actions, etc.) can be discriminatory if the requirement has an *adverse effect* and if the requirement is *not necessary* to determine the qualifications for the job or training in question. The case will turn on whether the policy or practice in questions is a legitimate “business necessity.”

Failure to provide reasonable accommodation applies where there is a legal obligation to provide reasonable accommodation, as in the case of a disability or religious belief. Failure to provide a qualified individual with a disability with reasonable accommodation that is legally required – whether by WIA, the Americans with Disabilities Act (ADA), or Section 504 of the Rehabilitation Act – can be construed as discrimination on the basis of disability, unless providing the accommodation would cause “undue hardship”. In general, “undue hardship” means significant difficulty or expense incurred by an LWIB, Workforce Center, Service or Training Provider. Factors to be considered in determining whether an accommodation would impose an undue hardship on a LWIB, difficulty or expense incurred by a LWIB, are outlined in 29 CFR 37.4.

## **Procedure**

### **Determining Jurisdiction**

The first step in processing a complaint is to determine if it is within the Western Virginia Workforce Development Board’s jurisdiction – that is, if the WVVWDB has the legal authority to accept the complaint for investigation. There are three considerations that determine jurisdiction – basis, timeliness, and whether the respondent is a recipient of DOL funds.

**BASIS:** The WVVWDB can accept and investigate only those complaints that allege discrimination on the basis of race, color, religion, national origin, gender, political affiliation or belief, age, or disability, or (for beneficiaries only) because of citizenship or participation in WIA.

**TIMELINESS:** The WVVWDB will ordinarily accept and investigate a complaint only if it is filed within 180 days of the alleged violation. This time limit can be waived by the Director of CRC if the complainant (a) shows that he or she was not notified of the time limit and was not otherwise aware of it, (b) was prevented by circumstances beyond his or her control from filing a complaint, or (c) has some other reason considered sufficient by CRC.

**RECIPIENT OF WVVWDB FUNDS:** The WVVWDB can accept and investigate only those complaints in which the respondent – the program or activity against which the complaint is filed – is a program or activity funded in whole or in part by WVVWDB funds. All programs and activities funded in whole or in part by WIA are recipients of WVVWDB funds and are, therefore, within the WVVWDB’s jurisdiction.

### **Notifying the Respondent and the Complainant**

Once it is determined that a complaint is within the WVVWDB’s jurisdiction, the complaint is investigated by the WVVWDB’s EO Officer. The EO Officer sends the respondent (the administrator or manager of the program/activity receiving funds) notice, which informs him or her that the WVVWDB has accepted the complaint and includes:

- the complainant’s name,
- a brief description of the allegation,
- a description of the information or documentation needed for the investigation, and time in which it is to be submitted,

- a reminder to the respondent that any form of retaliation or intimidation against the complainant because he or she has filed a discrimination complaint is prohibited, and
- the name and telephone number of the WVVDB's EO Officer assigned to the case.

A copy of the complaint may be provided to the respondent if it is requested. The EO Officer also sends the complainant a similar notification letter. Both the respondent and the complainant are encouraged to informally resolve the complaint prior to the issuance of a determination.

#### Data Collection

A complaint can be investigated in two ways: through analysis of data relevant to the investigation and/or through an on-site investigation. Data needed to determine the merits of the allegations in the complaint should be identified. A written list of questions is forwarded to the respondent, complainant, and other parties such as witnesses. Some questions will require a written response, some will request records, and others will require documentation. The EO Officer analyzes the data and, if it is sufficient, a determination as to whether or not discrimination occurred may be issued without an on-site investigation.

#### The On-Site Investigation

The EO Officer conducts the complaint investigation at the site of the alleged violation when:

- the issues are complicated;
- after reviewing the data collected, it is determined that several witnesses must be interviewed or many records reviewed; or
- the WVVDB's EO Officer has received several complaints against the same respondent.

Before arriving on-site, the EO Officer contacts the respondent to establish a date and time for the on-site investigation, to identify records and other documents to be made available for review, and to identify individuals to be interviewed. This should be regarded as an initial information request. As the investigation proceeds, the EO Officer may identify additional information requirement or interviewees. The respondent should identify a person responsible for coordinating the on-site investigation. Once on-site, and before meeting with the respondent, the EO Officer meets with the complainant to review the complaint and to obtain any additional information not contained in the complaint or case file.

The opening conference is held at the respondent's facility; the EO Officer meets with the respondent and/or respondent's representatives to:

- describe the complaint being investigated, including the specific allegation(s) and issue(s) under investigation and the WVVDB's authority to investigate them;
- confirm arrangements made by the respondent to assure the EO Officer privacy, including setting aside a private area for the EO Officer to conduct interviews and review documents;
- confirm the interview schedule of individuals named in the complaint, as well as other witnesses; and
- schedule other meetings, such as the orientation meeting for information collection and the exit interview.

Normally, the EO Officer does not discuss the merits of the complaint during the opening conference.

#### Gathering Evidence

In an on-site investigation, the EO Officer gathers evidence by interviewing and by reviewing records. Initially, the EO Officer interviews the official(s) representing the respondent and the person(s) named in the complaint. Information obtained includes:

- the respondent's account of the facts,
- additional persons the respondent wishes interviewed and the matters on which each witness can be expected to provide information, and
- documentation that the respondent wishes reviewed.

The EO Officer also interviews witnesses – that is, all individuals named either by the complainant or the respondent as witnesses. As the investigation progresses, the EO Officer may identify additional individuals who should be interviewed. In addition to conducting interviews, the EO Officer gathers information by reviewing records and other documents, beginning with those initially requested. As the investigation progresses, the EO Officer may require additional records. When the records

required are voluminous or complex, the EO Officer may hold a meeting with the staff responsible for keeping records to:

- acquaint the EO Officer with the respondent's information system,
- acquaint the respondent with the EO Officer's information needs, and
- assign specific document or information request to the appropriate person.

### Types of Evidence

In general, evidence falls into four categories:

Direct evidence is evidence of the actual, subjective intent of the person(s) charged with discrimination. It may take the form of an admission of discriminatory purpose, although this will rarely occur. You will most often find such an admission during an interview, when a person is explaining or justifying his or her actions. Direct evidence encompasses more than admissions: it also includes any facts tending to establish the subjective motives of persons involved in the alleged discrimination.

Circumstantial evidence includes facts from which one may infer intent or discriminatory motive. Circumstantial evidence proves intent by using objectively observable data. It does not, however, prove anything directly about actual subjective intent – for example, historical information on how members of the protected group have been treated by the respondent, and similar complaints.

Comparative evidence is that which identifies difference(s) in treatment of similarly situated individuals based on their race, sex, or other protected basis. For example, this might involve comparing the quality and quantity of services provided a group of the same race with services provided to a group of a different race. If there is no adequate non-racial explanation for the differences, it is reasonable to infer that race may be a factor.

Statistical evidence is most often used to demonstrate the adverse effect of a procedure, policy, rule, or selection criteria. The evidence will have to show that a substantial disparate impact exists, and that it is not due to chance. Such evidence may include EO data reports and monitoring reports.

### The Exit Conference

When the on-site investigation has been completed, the EO Officer may hold an exit conference with the respondent to clarify the information obtained during the on-site investigation or to request additional information. The EO Officer expresses no opinion about the information collected during the on-site investigation and makes no analysis or conclusions about the issues.

### Administrative Closures

Pre-investigative administrative closures occur prior to the initiation of the investigation.

A pre-determination administrative closure is one which occurs between the initiation of an investigation and before an investigative report is drafted. Investigations may not be administratively closed if they imply or involve class issues, which have not been corrected for all members of the class. Investigations that are not class involved may be administratively closed if one or more of the following conditions exist – that is, if the complainant:

- refused to cooperate in the investigation;
- cannot be located;
- is deceased;
- withdraws the complaint in writing; or
- was fully resolved through mediation or conciliation.

If the complainant can be located, he or she must be notified in writing that the complaint is being administratively closed and explain the reason for the decision. The closure letter should also advise the complainant of the right to file a complaint with the CRC within 30 days of receipt of the letter of closure.

### Analysis of Evidence

#### Disparate Treatment

To determine if it is reasonable to believe that discrimination based on disparate treatment occurred; a three-phase analytical process will be used. This process is as follows:

### Phase 1: Prima facie

This phase is a determination as to whether there is sufficient evidence to raise an inference of discrimination. An inference does not prove discrimination; rather, it allows you to go on to the next analytical set(s) – determining whether the inference is correct.

An inference of discrimination based on disparate treatment can be established when an eligible/qualified individual shows that he or she was treated differently because of a prohibited factor.

In the case of systemic or pattern-or-practice discrimination, an inference of discrimination may be established by showing that individuals or groups are treated differently based on race, sex, or some other prohibited factor.

The Supreme Court created a template for establishing a case by inference based on disparate treatment. The elements of a prima facie case may vary depending on the facts of the complaint, but such elements often include the following:

1. the aggrieved person was a member of a protected class;
2. this person applied for, and was eligible for federally assisted program or applied and was qualified for employment;
3. was denied services or employment despite being eligible/qualified; and
4. after this denial, the respondent selected applicants for services or provided employment to persons not in the complainant's group with similar eligibility or qualifications.

### Phase 2: Rebuttal

The second phase is the respondent's opportunity to defend itself. If there is sufficient evidence to establish a prima facie case, the investigator must determine if the respondent can articulate a "legitimate, nondiscriminatory reason" for the challenged action. For example, in a case of individual discrimination, the respondent might explain that the complainant was not as qualified as the applicant selected for employment, or that the complainant applied for training at a time when there were no vacancies. In the case of systemic discrimination based on disparate treatment, the respondent might explain the low placement of women in auto mechanics by showing that the women who applied were not as qualified as the male applicants.

### Phase 3: Pretext

Once the respondent has articulated a reason for the disparate treatment, the investigator must examine the respondent's reasons and evidence relevant to the complaint. Where facts are in dispute, the investigator should attempt to corroborate the facts independently. If the respondent's defense is not based on a legitimate requirement, the investigator may show that the rebuttal evidence presented by the respondent was a "pretext" for discrimination. Types of evidence that may be helpful in proving pretext are:

- the respondent failed to follow its own rules, policies, and procedures;
- the respondent acted inconsistently with its own stated, legitimate nondiscriminatory reason;
- evidence obtained in the investigation contradicts the nondiscriminatory reasons; or
- the reason offered now was not offered to support the challenged decision at the time it occurred, suggesting the reason was offered as an afterthought.

### Disparate Impact

The model for proving discrimination based on disparate impact is different from the disparate treatment model because the underlying theory is different. Rather than seeking to prove that the service or training provider had a discriminatory motive, you are seeking to prove that a policy, requirement, or practice has a disproportionate effect on a particular group or groups. Indications of disparate impact are most likely to arise in the context of a compliance review.

### Determining Adverse Impact

The investigator will need to develop evidence that can be tested for adverse impact by making a comparison of the effects of the policy, requirement, or practice in question on members of the complainant's protected class with persons not in the protected class. The evidence in an investigation of a case involving disparate impact will likely include both *statistical* and *comparative* evidence (see "Types of Evidence").

The first step is determining whether there is disproportionate representation of protected class members participating in the program in question (for example, four percent of participants in a training program are female, while fifty percent of the applicants are female). In this case, the investigator will want to look at the application process and other aspects of program administration to determine if there is evidence that a policy or practice is causing the disparity. If there is a statistically significant disparity between the representation of protected class members remaining after application of the challenged policy or requirement when compared with the representation of persons not in the protected class, a *prima facie* case has been established.

#### Identifying the Cause of the Adverse Impact

After determining that the numbers show significant differences, the next step is to determine what caused the disparities. The investigator must identify which policy, requirement or practice accounts for the adverse impact. That requires focus on the points in the decision making process where some applicants become participants and others do not. (For example, identifying which requirements or practices have the result of screening out more women applicants than you would expect to be screened out, given the number of women applicants.)

#### Business Necessity

Identifying the requirements or practices that have the adverse impact *does not prove* disparate impact discrimination. A determination must be made as to whether the requirement that has the adverse impact is *job related and necessary*. (For example, a requirement that a firefighter trainee weigh at least 150 pounds could disproportionately screen out women as a group, even if some women can meet the requirement and some men cannot.)

In this scenario the service or training provider would have to provide evidence that the weight requirement is necessary for a job related reason (for example, evidence that the weight test is an accurate predictor of a person's ability to handle firefighting equipment).

#### Identifying Alternative Practice

Even if the weight test accurately predicts success in firefighting, if it has an adverse impact, the service or training provider must first try to devise a standard that *does not have adverse impact* to determine whether an applicant can handle the equipment.

#### Post Investigation

##### Investigative Report

An investigative report is a written document that sets out in a detailed and logical fashion (a) all facts pertinent to the case, (b) analyzes those facts in light of the complainant's allegations, and (c) recommends a determination as to the validity of the allegations based on that analysis. The following is a suggested format:

- Introduction
- Allegations
- Analysis
- Conclusions
- Recommendations

The investigative report should be a document separate from the formal letter of findings. Generally, the investigative report is not released to the complainant or the service or training provider except in the case of a Freedom of Information Act request or Privacy Act request. Ideally, an investigative report should be prepared whenever a full investigation is completed. If an investigative report is not done in every case, it should be prepared for complex cases that involve extensive analysis. An investigative report should also be prepared for all cases resulting in a violation. If the case is straightforward, raises only limited issues, does not involve significant rebuttal by either party, and results in a no violation finding, an investigative report may not be necessary.

##### Letter of Findings

The purpose of the letter of findings is to notify the parties in writing of the determination made on each issue. Letters of findings must be prepared for all investigations, regardless of whether a violation is found. A written notice of final action must be sent within 90 days after the filing date of the complaint. Complainants must be notified of their right to file a complaint with CRC if they believe the determination is unsatisfactory.

Each letter of findings must:

- State the jurisdictional authority including the basis for the investigation;
- Address all issues covered in the investigation, and for each issue reach conclusions which are supported by an explanation or analysis; and
- State the determination for each issue investigated.

## Policy and Procedure

<b>Title:</b>	Corrective Actions or Sanctions for Discrimination	<b>Number:</b>	03-121
<b>Effective Date:</b>	April 4, 2003	<b>Revisions:</b>	August 10, 2003

### Purpose

To establish and communicate procedures for obtaining prompt corrective action or, as necessary, applying sanctions when Workforce Centers, Service and Training Providers are determined to be in violation of the nondiscrimination and equal opportunity provisions of the Workforce Investment Act.

### Reference

- P.L. 105-220, Workforce Investment Act, Section 188, (a)(2)(4)(5) 29 CFR Part 37, Department of Labor, Office of the Secretary, implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Investment Act: Final Rule, November 12, 1999.

### Policy

The Western Virginia Workforce Development Board (WVWDB) will seek corrective action from a Workforce Center, Service or Training Provider if a violation is identified as the result of equal opportunity (EO) monitoring or a complaint investigation. Efforts will be made to secure voluntary compliance. Technical and discrimination violations will be addressed through corrective actions.

### Procedure

#### Violations

When technical violations are found during compliance monitoring, the EO Officer or EO Monitor will notify the recipient in writing of the violations along with recommendations for corrective action. The EO Officer or EO Monitor is responsible for providing technical assistance to correct the violations. Corrective action may include policy development or educating individuals responsible for implementing the required action. A follow-up visit or contact will be made by either the WIB EO Officer or EO Monitor to evaluate progress made toward resolving the violations when a Workforce Center, Service or Training Provider is cited for discrimination. Violations as a result of an investigation and/or monitoring efforts shall be made to achieve voluntary compliance by corrective action or a conciliation agreement to correct the discrimination.

Provisions for corrective action are outlined in detail in WVWDB Policy 003-120, DISCRIMINATION COMPLAINT PROCEDURE. In general terms, the complaint procedure is as follows:

Corrective action shall be completed within 45 days from the date of initial notification of the violation. Follow-up monitoring will be conducted to determine whether compliance has been achieved. Workforce Centers, Service and training providers shall provide access to information, to include the provision of reports and other information pertaining to determined violations, as required.

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

- The apparent violation(s) and the pertinent nondiscrimination or equal opportunity provision(s) of 29 CFR part 37;
- The efforts made to achieve voluntary compliance; and
- The corrective action the recipient must take to redress the violation.

The State EO Officer may secure voluntary compliance with the Workforce Center, Service or Training Provider through a written assurance and/or conciliation agreement. Sanctions shall be considered by the State EO Officer (or the VEC Commissioner) only if the Workforce Center, Service or Training Provider will not agree to take voluntary corrective action. Sanctions that may be imposed include termination of funding, partial funding and disallowance of selected cost.

## Procedure

<b>Title:</b>	How to File a Formal Complaint.	<b>Number:</b>	03-122
<b>Effective Date:</b>	April 4, 2003	<b>Revisions:</b>	

### Purpose

The purpose of this document is to provide instructions on how to file a formal complaint.

### Reference

This policy is issued by the Virginia Employment Commission (hereinafter referred to as VEC, Code of Virginia; and to the United States Department of Labor (hereinafter referred to as DOL) for programs under the P. L. 105-220, Workforce Investment Act, (hereinafter referred to as the Act), Section 111(d)(2), 20 CFR 652, et al., Workforce Investment Act, Final Rule, August 11, 2000, 29 CFR Part 37, Department of Labor, office of the Secretary, Implementation of the Nondiscrimination and Equal Opportunity Provisions of the WIA, Final Rule, November 12, 1999, Civil Rights Act of 1964, Title VI, Age Discrimination Act of 1975, Rehabilitation Act of 1973, and Education Amendments Act of 1972, Title IX.

### Procedure

Any individual or organization may file a grievance alleging a violation of the Workforce Investment Act, rules, regulation, grants, or other agreements made under the Act by the Western Virginia Workforce Development Board, its vendors, or contractors. Grievances which do not involve violation of the Act are not subject to this procedure. With the exception of complaints alleging fraud or criminal activity, the filing of a grievance must be made within one year of the date of the alleged violation. All complaints alleging discrimination must be brought within 180 calendar days of the alleged discriminatory act. Alleged violations of the Act rules, regulations, grant, or other agreement under the Act must follow the procedure described below:

*NOTE: All references to days shall be defined as calendar days counted from the day a grievance is received by the Chairman of the WVWDB. Time frames may be extended for good cause if both parties agree in writing to waive the time frames.*

- A. A verbal grievance detailing the specific nature of the grievance shall be initiated with the Workforce Center Equal Opportunity representative (EO Officer, as referred to in above P&Ps?). You may write or call the Workforce Center administrative office (name and address located at the bottom of this document) to arrange a meeting. The Official Equal Opportunity Representative (EO Officer?) must provide a verbal response to you within three (3) calendar days. Most grievances can be resolved at this level. If satisfactory resolution is not possible during the verbal stage, you must submit the grievance in writing.
- B. A written grievance detailing the specific nature of the grievance must be prepared and submitted to the Chairman of the Western Virginia Workforce Development Board. You are required to submit a formal grievance by completing a WIA Grievance Form available from the Western Virginia Workforce Development Board administrative office (Doloris Vest, President, 108 N. Jefferson St., Suite 809, Roanoke, VA 24016) by sending the following information:
  - (1) Your business and home address
  - (2) Your business and home telephone numbers
  - (3) Nature of the grievance
  - (4) Regulation or policies violated, if known
  - (5) Date of alleged unfair or discriminatory act
  - (6) Name and title of others involved in the situation.

- C. All complaints alleging discrimination must be brought within 180 calendar days of the alleged discriminatory act. Discrimination complaints may be filed with the WVVWDB administrative office or directly with the DOL, Civil Rights Center, 200 Constitution Avenue, NW, Washington DC 20210. **This form** is available from the WIB administrative office: Virginia Employment Commission, P. O. Box 1360, Richmond, Virginia 23211-1360, or may be sent directly to Department of Labor at the above address.
- D. All grievances must be brought within one year of the alleged Workforce Investment Act violation.
- E. For discrimination grievances, please refer to Policy 03-118: Discrimination Complaint Policy and 03-120: Discrimination Complaint Procedure.

All non-discrimination grievances filed at the local level will be considered using the following procedure:

- A. Hearing: The Workforce Center shall have thirty calendar days from receipt of your written grievance to conduct a hearing.
- B. WVVWDB Decision: A decision shall be rendered by Chairman of the Western Virginia Workforce Development Board within sixty (60) calendar days of receipt of your written grievance.
- C. Appeal:  
Non-discrimination Grievances: If you are dissatisfied with the local decision or if a decision has not been rendered within sixty (60) days of the filing of your grievance, an appeal may be made to the Commonwealth of Virginia, Virginia Employment Commission, within (10) calendar days of receipt of the local decision or within ten (10) calendar days of the date it was due. The review of your appeal and final decision shall be rendered by the Virginia Employment Commission within thirty (30) calendar days of receipt of your appeal. All parties shall be notified of the Virginia Employment Commission's final decision in writing.

If the Virginia Employment Commission fails to render a decision within thirty (30) calendar days or if a decision involves an allegation of discrimination, an appeal may be made to the DOL within ten (10) calendar days of the date the decision was due. A decision rendered by the Virginia Employment Commission within the time frames provided is final and not subject to appeal to the DOL unless it involves a complaint of discrimination.

If you are dissatisfied with the local decision or if a decision has not been rendered within thirty (30) calendar days or if a decision involves an allegation of discrimination, a complaint may be made to the DOL, Civil Rights Center, 200 Constitution Avenue, NW, Washington, DC 20210, within thirty (30) calendar days of receipt of the local decision or within ninety (90) calendar days of the date of the filing of the grievance, whichever is earlier.

Complaints alleging discrimination on the basis of race, color, religion, gender, national origin, age, disability, political affiliation or belief, and for beneficiaries only, citizenship or participation in Workforce Investment Act programs, may be filed with the Workforce Center, Workforce Investment Board, WIA Administrative Office of Virginia Employment Commission (Richmond, VA) or DOL, Civil Rights Center. All discrimination complaints must be filed within 180 calendar days of the alleged discriminatory act.

Inquiries concerning the complaint procedure should be directed to: Doloris Vest, President, Western Virginia Workforce Development Board, 108 N. Jefferson St., Suite 809, Roanoke, VA 24016.

## Policy and Procedure

<b>Title:</b>	Providing Core, Intensive and Training Services	<b>Number:</b>	06-123
<b>Effective Date:</b>	April 7, 2006	<b>Revisions:</b>	October 6, 2006

### Policy Statement

The Western Virginia Workforce Development Board (WWVDB) is devoted to the WIA policy that a one-stop delivery system provides a wide range of workforce development services for adults and dislocated workers that support a “work first” model. The “work first” model is a three-tier approach, beginning with a basic set of core services such as information on services available, self-help and staff assisted services. The one-stop delivery system in the Western Virginia Workforce Development area will make all core services available equally to all individuals seeking a job or wishing to advance their careers.

The universally accessible core services function is a doorway to the second tier of services referred to as *intensive services*. As services become increasingly intensive and comprehensive, eligibility provisions, qualifications and priority requirements emerge to determine the appropriateness, the suitability and the necessity of providing the expanded intensive services. Intensive services to adults and dislocated workers are designed for the unemployed who are unable to obtain employment through core services, have been determined by the one-stop operator to be in need of additional intensive services in order to obtain employment, or are in need of intensive services to obtain and retain employment that allows for economic self-sufficiency.

The final level of services is in-depth training activities. Training may be available to those adults and dislocated workers who have met the eligibility provision for intensive services yet cannot find employment through core and intensive services. Training services may include, but are not limited to, customized training, on-the-job training, training for special populations, occupational skills training, and other training programs that have been approved by the WWVDB.

### **Procedure**

#### 1. Core Services

##### A. Universal Access to WIA Core Services

One-stop service delivery centers in the Western Virginia Workforce Development area will provide universal access to core services for all customers desiring such services without regard to any eligibility requirements. Thus, all individuals shall have equal access to WIA core services, and no individual shall be at a particular disadvantage or shall encounter unnecessary difficulty in gaining access to those services. The WWVDB will assure that universal access includes such issues as eliminating architectural and programmatic barriers to individuals with disabilities and facilitating access for individuals with poor computer skills to computer-based information and services. In addition, the Western Virginia Workforce Development Board will ensure that universal access excludes place of residence as an eligibility criterion for receiving services, and furnishes access to a physical location with minimal transportation barriers and flexible hours of operation.

##### B. WIA Mandatory Self-Service and Informational Core Services

The Western Virginia Workforce Development Board is mandating that the following self-service and informational core services be accessible to all individuals through the local one-stop service delivery system, having no requirements for participant registration, eligibility, qualification or prioritization of service:

1. Outreach, intake and orientation to labor market information and other services available through the one-stop delivery system;
2. Initial assessment of skill levels, aptitude, abilities and supportive service needs;
3. Provision of employment statistics information, including the provision of accurate information relating to local, regional and national labor market areas, including:
  - a. Job vacancy listings in such labor market areas;
  - b. Information on job skills necessary to obtain the listed jobs; and
  - c. Information relating to local occupations in demand and the earnings and skill requirements for such occupations;
4. Provision of performance information and program cost information on:
  - a. Eligible providers of WIA training services;
  - b. Eligible providers of WIA youth activities;
  - c. Providers of adult education described in Title II;
  - d. Providers of post-secondary vocational education activities and vocational education activities available to school drop-outs under the Carl D. Perkins Vocational and Applied Technology Education Act; and
  - e. Providers of vocational rehabilitation program activities described in the Rehabilitation Act of 1973;
5. Provision of information regarding filing claims for unemployment compensation;
6. Provision of accurate information relating to the availability of supportive services, including child care and transportation available in the local area and referral to such services, as appropriate;
7. Provision of information regarding how the local area is performing on the local performance measures and any additional performance information with respect to the one-stop delivery system in the local area;
8. Information and assistance in applying for:
  - a. Welfare-to-work activities, and
  - b. Financial-aid assistance for training and education programs that are not funded under this Act and are available in the local area;
9. Self-help job search and placement assistance:
  - a. Individual or group instruction on how to conduct a job search using self-service resources of a career center, and
  - b. Making referrals that are informational in nature or referrals to labor exchange; **and**
10. Access to the core services and information about all programs of required partner agencies.

The Western Virginia Workforce Development Board is requiring at a minimum that all partners' core services be made available at the local comprehensive or "full-service" Workforce Center. Local Memoranda of Understanding (MOUs) will spell out the specific core services of each one-stop partner.

The provider of core services is responsible for documenting the specific core services provided to each customer, as well as the duration and results of applicable core services provided. In addition, the core services provider can make a referral to the intensive services provider when the core services provider has determined that the client is unable to secure suitable employment utilizing only core services and could benefit from receipt of more intensive services in their job search efforts.

## 2. Intensive Services

The WVVWDB requires the following to occur before an adult or dislocated worker may move from core services to intensive services:

- A. The provider of core services must refer the adult or dislocated worker for intensive service for one of two reasons:
- i. The adult or dislocated worker is unemployed and is unable to obtain employment through core services. In addition, the provider of core services has determined that the individual is in need of further intensive services beyond core services in order to gain employment.
  - ii. The adult or dislocated worker is employed, but who is determined by the provider of core services to be in need of intensive services in order to obtain or retain employment that allows for economic self-sufficiency.

In either case, the provider of core services must provide a written referral indicating that core services have been provided and additional core services will not result in employment. The Western Virginia Workforce Development Board requires this referral be made prior to enrollment/registration into intensive services.

- B. In order to receive WIA intensive services, an adult or dislocated worker must be determined eligible to receive intensive services and training under Title I. The Western Virginia Workforce Development Board is following the Federal and State Policy of Priority of Service (Federal Register, Section 663.600) when determining adult eligibility only. Funds allocated for dislocated workers are not subject to this requirement.

### 3. Intensive Services Provided

The Western Virginia Workforce Development Board requires all adult and dislocated worker participants who are enrolled in intensive services to receive an individualized comprehensive and specialized assessment of skill levels and service needs. These assessments will include diagnostic testing and use of other assessment tools, as well as an in-depth evaluation to identify employment barriers. In addition, intensive services will include the development of an individual employment plan (IEP) and case management (including job search assistance). Individual counseling, group counseling, short-term pre-vocational instruction and job readiness classes may also be offered, depending on the needs of the individual.

In addition to the above list of services, the Western Virginia Workforce Development Board will make available additional intensive services. These services may be offered to individuals whose assessments and individual employment plans (IEPs) have identified particular obstacles to employment in which additional services are required to overcome those barriers, such as:

- Out-of-area job search expense payment;
- Relocation expense payment;
- Internships;
- Work experience;
- Career planning;
- Referrals to community services; and
- Supportive services, which may include transportation, child care, meals, and other reasonable expenses required to keep a participant in intensive services – for example, auto repairs, rent, etc.;
- Job readiness training; and
- Adult education and literacy activities provided in combination with other services.

The provider of intensive services is responsible for documenting customer eligibility (to receive intensive services), the specific intensive services provided, the duration and results of applicable intensive services provided, and the need for customer training in order to secure employment. Additionally, the intensive service providers must maintain documentation of core services provided in addition to the referral from the provider of core services.

### 4. Training Services

The Western Virginia Workforce Development Board will allow program operators to refer customers to training who have been unsuccessful through core and intensive services in gaining employment, or who need training to obtain and retain employment that allows for economic

self-sufficiency. Training services may be made available to employed and unemployed adults and dislocated workers who meet the following conditions:

- a. The adult or dislocated worker has met the eligibility requirements for intensive services, including priority of service for adults. In addition, have received a comprehensive assessment, development of individual employment plans (IEP), case management (including job search assistance), and have been determined to be unable to obtain or retain employment through such services;
- b. The adult or dislocated worker, after a comprehensive assessment, IEP and case management, has been determined by the program operator to be in need of training services and to have the skills and qualifications to successfully complete the selected training program;
- c. The adult or dislocated worker has selected a program of training services that is directly linked to the employment opportunities, either in the local area or in another area to which the individual is willing to relocate; or
- d. The adult or dislocated worker is unable to obtain grant assistance from other sources to pay the costs of such training, including such resources as Welfare-to-Work, State funded training funds, Trade Adjustment Assistance and Federal Pell grants established under Title IV of the Higher Education Act of 1965. Furthermore, the adult or dislocated worker may receive training services if they require WIA assistance in addition to other sources of grant assistance, including Federal Pell Grants.

#### 5. Types of Training Services

The WVVWDB's program operators may refer customers to the following types of training service:

- Occupational skills training, including training for nontraditional employment;
- On-the-job training;
- Programs that combine workplace training with related instruction, which may include cooperative education programs;
- Training programs provided by the private sector;
- Skills upgrading and retraining;
- Entrepreneurial training; and
- Customized training conducted with a commitment by an employer or group of employers to employ an individual upon successful completion of the training.

The WVVWDB's program operators may also provide needs-based and supportive services to enable adult and dislocated workers to participate in training programs under WIA. The supportive services that may be provided during training are the same as that provided during intensive services.

#### 6. Selecting Training Programs and Providers

It is the responsibility of the program operator and individual case managers to ensure participants are able to make informed decisions when selecting a training provider. While case managers should not direct individuals to specific programs or providers, it is essential that case managers provide guidance as to the types of training providers.

The selection of an appropriate training program must be based on the following:

- a. Assessment results;
- b. Ability of the participant to obtain employment once the training program has been completed;
- c. Ability of the participant to be able to earn a wage leading to economic self-sufficiency;
- d. Participant Choice - Program operators must provide the participant with "report card", information on the training program(s), and/or provider(s) being considered by the participant;

- e. Training providers must have been previously approved by the Western Virginia Workforce Development Board of Directors; and
- f. Participants must agree to adhere to the Individual Training Account /Voucher and other applicable policies approved by the Workforce Board of Directors.

7. Limitations on training.

Participants wanting to pursue any degree higher than a two-year associate's degree (i.e. bachelor's, second bachelor's, master's etc.) must first receive a waiver. Participants with a bachelor's, master's or other advanced degree may receive skills upgrade to enable them to return to their occupation without requesting a waiver

8. Waivers:

A waiver to the above limitations may be requested from WVVWDB president on a case-by-case basis. The necessity for waiver must be sufficiently justified and documented in order for a waiver to be approved.

9. Operator Responsibility

The program operator is responsible for ensuring compliance with all applicable rules, regulations, policies and procedures as well as the maintenance of all required documentation to verify this compliance. WVVWDB staff will monitor all workforce center operators, program operators and providers of services on an annual basis to verify compliance.

To ensure a smooth and effective service delivery system, all service and training providers must communicate, coordinate and cooperate in a joint effort designed to provide the highest level of customer service with the least amount of complication and duplication. Participants' activities, plans and needs should be discussed among the various service providers to ensure that all participants' needs are met in an effective and efficient manner. The Western Virginia Workforce Development Board is committed to a workforce development system that is customer-driven, customer-focused and customer-friendly. In addition, the Board is dedicated to developing a system that is as effective, efficient and non-duplicative as possible. All efforts will be made to utilize the workforce center partner programs in the local one-stop delivery system to achieve this objective.

## Policy and Procedure

<b>Policy Name:</b>	Cost Allocation	<b>Number:</b>	06-124
<b>Effective Date:</b>	October 6, 2006	<b>Revisions:</b>	

**Purpose**

To provide guidance on allocating cost to the specific funding streams and allow WVVDB to properly manage the provision of workforce service.

**Reference**

- OMB CIRCULAR NO. A-87
- 20 CFR 667.220

**Policy**

This Policy establishes principles and standards for determining costs for awards carried out through grants, cost reimbursement contracts, and other agreements. These fiscal and administrative requirements ensure that costs are reasonable and necessary for operating WVVDB programs and used in compliance with all applicable statutory and regulatory provisions.

A cost is allocable to a particular cost objective if the goods or services involved are chargeable or assignable to such cost objective in accordance with relative benefits received. All activities which benefit from the governmental unit's indirect cost, including activities and services donated to the governmental unit by third parties, will receive an appropriate allocation of indirect costs.

**A. Direct Costs –**

1. Direct costs are those that can be identified (see 20 CFR 667.22 and OMB Circular No. A-87) specifically with a particular final cost objective, such as:
  - a. Compensation of employees for the time devoted and identified specifically to the performance of those awards.
  - b. Cost of materials acquired, consumed, or expended specifically for the purpose of those awards.
  - c. Equipment and other approved capital expenditures.
  - d. Travel expenses incurred specifically to carry out the objective.
2. Any direct cost of a minor amount may be treated as an indirect cost for reasons of practicality where such accounting treatment for that item of cost is consistently applied to all cost objectives.

**B. Indirect Costs**

1. Indirect costs are those: (a) incurred for a common or joint purpose benefiting more than one cost objective, and (b) not readily assignable to the cost objectives specifically benefited, without effort disproportionate to the results achieved. The term "indirect costs," as used herein, applies to costs of this type originating in the grantee department, as well as those incurred by other departments in supplying goods, services, and facilities. To facilitate equitable distribution of indirect expenses to the cost objectives served, it may be necessary to establish a number of pools of indirect costs within a governmental unit department or in other agencies providing services to a governmental unit department. Indirect cost pools should be distributed to benefited cost objectives on bases that will produce an equitable result in consideration of relative benefits derived.

WWDB uses a multiple allocation base method because the indirect costs benefit major functions in varying degrees. Indirect costs are accumulated into separate two cost groupings: indirect program and indirect operating. Each grouping is allocated individually as follows:

- Indirect program costs are distributed based on the percentage of program participants in a given year in that program.
- Indirect operating costs are distributed to program and administrative funds in proportion to the number of staff hours worked in the month in which the indirect cost was incurred.

**Board Approval Date**

October 6, 2006

List of attachments that should be with the Policy & Procedure Manual:

<b>Policy No.</b>	<b>Policy/Procedure Section</b>	<b>Form/Document</b>
03-104	Procedure, Section E.1.	Monitoring checklist
03-105	Procedure, Section B. Procedure, Section C. Procedure, Section C.5. Procedure, Section C.6.	Partner Agency Referral Form Consent to Exchange Information Form Verification of Core Services Form WIA Applicant Form VEC Workforce Investment Act supplemental forms, instructions and glossary of terms
03-106	Individual Training Account Procedure	Individual Training Account form
03-107	Policy, Section D (Duration) Procedure – Process	OJT Time Conversion Chart OJT contract OJT monthly progress report
03-109	"In order to receive training services," Section D.	Federal Pell Grant application
03-112	Solicitation/Application Process	WVWDB-established guidelines for collecting performance, customer service & outcomes data (a.k.a. Minimum performance requirements for recertification)
03-119	Procedure Section C	Discrimination Complaint form

Reference resources for Policy & Procedure Manual	03-101	Sunshine provisions (state? fed?)
	03-108	U.S. DOL's Poverty Guidelines U.S. DOL's Lower Living Standard Income Level
	03-110	Military Selective Service Act