

Mass Workforce Issuance

Workforce Issuance No. 08-13

Policy **Information**

To: Chief Elected Officials
Workforce Investment Board Chairs
Workforce Investment Board Directors
Title I Administrators
Career Center Directors
Title I Fiscal Officers
DCS Regional Managers

cc: WIA State Partners

From: David W. Mackley, Director
Department of Workforce Development

Date: July 1, 2008

Subject: **Sanctioning and Banishing One-Stop Career Center Customers for Violent or Disruptive Behavior.**

Purpose: To provide guidance to Local Workforce Investment Boards (LWIBs), One-Stop Career Center (OSCC) operators and other local workforce investment partners to assure local consistency with respect to procedures for disciplining disruptive customers, including banishment of a customer from a One-Stop Career Center.

Background: To assure the safety of both the public and state employees, the MA Human Resource Division issued its statewide *Policy of Zero Tolerance for Workplace Violence* on December 20, 2002. Subsequently, the Division of Career Services issued WIA Communication 04-52, One-Stop Career Center Safety in the Workplace Plans on June 10, 2004 mandating, as a matter of state policy the development and implementation of a written “Safety in the Workplace Plan” for the local career center system to ensure a safe, healthy and secure work environment at all Massachusetts One-Stop Career Centers. Under the policy, local areas had the option to develop either a single, area-wide plan or require individual safety plans for each career center location.

While Massachusetts’ One-Stop Career Center staff must always exhibit a courteous, professional manner in dealing with their customers and fellow employees, it is also essential that career center staff are afforded a safe and

secure working environment and are treated in a courteous and respectful way by their customers. To that end, WIA Communication No. 04-52 required local areas to implement a local policy of establishing a local Code of Conduct that engendered the principle that customers would conduct business in a respectful and non-threatening manner. Disruptive, threatening, violent or destructive behavior within the center by staff, as well as customers, will not be tolerated. Sanctions for engaging in such behavior can include banishment from use of the One-Stop Career Center.

In accordance with the Commonwealth's commitment to maintaining a safe environment in which customers and staff can conduct business, incidents of threatening behavior and violations of local Code of Conduct policies have, in fact resulted in a number of customers being banned from using a career center.

It is the intent of this issuance to provide policy guidance to local areas with respect to the establishment of a standardized progressive discipline model to assure a consistent procedural approach to dealing with customer violations of local Workplace Safety and Code of Conduct policies, particularly as those local policies address banishment of a customer. A clear and consistent local policy aligned to a statewide standard will provide direction to staff and help avoid the filing of formal customer complaints.

In formulating this guidance with respect to disruptive customers a workgroup of workforce development system partners was convened by the Division of Career Services (DCS) to review current practices and develop a consensus with regard to the general categorization of what are perceived to be *adverse customer behaviors* for which sanction is appropriate and consistent with Workplace Safety and Code of Conduct policies. Although other unwelcome/disruptive behaviors warranting possible sanction may exist, the most frequently occurring were determined to fall in one of the following categories:

Non-Violent Behavior:

- Behavioral – (loud, “nester”, using the OSCC as a *personal* office or to *operate* a business, violations of local code of conduct)
- Inappropriate use of equipment (computer, telephone, fax machine, violations of IT policies)

Violent Behavior:

- Threatening conduct
- Abusive conduct

Policy: Each local area must develop and implement a formal sanctioning policy for the area that specifically addresses both violent and non-violent disruptive behaviors (either physical or verbal) on the part of customers in violation of established local area policies for workplace safety and conduct. The local area must also establish and implement related sanctioning procedures that include a standard progressive discipline model that will be adopted by all One-Stop Career Center locations within the local area. Additionally, all notification to the customer of either sanction or banishment must be in writing (certified mail, return receipt requested is strongly recommended).

Non-Violent Behavior

In conjunction with the local Workplace Safety plan or Code of Conduct policy, a local area must develop standard procedures to address non-violent customer offenses. To avoid the appearance of preferential or inequitable treatment and to minimize the level of subjectivity that can often times inform staff decisions with regard to warning and sanctioning customers for engaging in non-violent disruptive behavior, each local area shall implement a standard progressive discipline policy and procedure for the local area. A description of a four-tiered progressive discipline model recommended by the workgroup follows, below.

First Level: **Oral Warning:** a career center manager (or designated staff person) speaks to the offending customer and informs him/her of the specific policy violation and the potential for formal sanctioning should the offensive activity continue. The specifics of the violation *and* warning must be noted in the customer's MOSES record in the MOSES Notes section.

Second Level: **Written Warning:** a career center director (or designated staff) writes a letter to a customer who has previously received an Oral Warning, but is found to have continued to violate the specified policy. The letter should cite the latest violation and advise the customer of the next step in progressive discipline and the possibility that he/she may ultimately be banned from using the center should the adverse behavior continue. Again the new violation and second level warning must be noted in the customer's MOSES record.

Third Level: **Temporary Suspension from the OSCC:** after a customer has received a Written Warning, but is then found to have continued to violate the specified policy, a decision to suspend the customer for a temporary period of time will be made. Based on the severity level of the offense (and as specifically addressed in the local area's written disruptive behavior sanctioning policy) suspension would be applied according to a progression of established time periods.

For example, continuation of less serious offenses may result in suspension of 5 days. For the next level of offenses, the suspension period may be for 10 days followed by suspensions of 30 days for more serious or continued offenses. The violation and determination of the specific terms of suspension must be noted in the customer's MOSES record.

Whatever "temporary suspension" policy and procedures is adopted within the local area, the local Workforce Board must assure *equitable application by each One-Stop Career Center Operator across all locations.*

Final Level: **Banishment:** Finally, with all prior levels of sanction exhausted or in the case of overtly violent or other highly egregious action on the customer’s part, permanent banishment from the career center or the local area’s system of centers (if multiple sites) may be pursued.

Whatever “banishment” policy and procedure is adopted by the local area, the local Workforce Board must assure *equitable application by each One-Stop Career Center Operator across all locations.*

NOTE 1: All documents and information gathered from staff and/or customer witnesses should be reviewed for an evaluation of the seriousness of each offense in order to make an informed determination (consistent with the local policy) as to the appropriate level of sanction (up to and including permanent banishment), including any specific terms that must be met by the offending customer in order to return to the career center.

NOTE 2: While each area is free to develop its own progressive discipline model, it is strongly suggested that contiguous areas approach the development of these policies and procedures on a “regional” level to assure a significant level of compatibility, particularly for areas in which experience has demonstrated customer use of workforce development and One-Stop Career Center services across local workforce investment area boundaries.

Additionally, the following guidance is provided with respect to banishment of a customer:

Banning a One-Stop Career Center Customer

All documentation related to a customer who is facing banishment (whether permanent or temporary), including any correspondence (letters or emails) sent to the customer; Incident Reports; and MOSES notes, should be forwarded to the individual (or individuals) designated in the local area policy to administer the banishment procedures for review and final determination. In the specific case where a local area chooses as its local policy to have the Notices of Banishment issued by the Commonwealth’s Executive Office of Labor and Workforce Development (EOLWD) Office of Internal Control and Security (see **NOTE 3**, below), all relevant evidence/documentation must also be sent to the Office of Internal Control and Security.

All documents and information gathered from staff and/or customer witnesses should be reviewed for an evaluation of the seriousness of offense in order to make an informed determination as to the terms of banishment (the potential banishment period and any other required circumstances that must be met by the individual prior to any future return - such as submission of a signed agreement as to the terms of future participation as a member of the career center).

NOTE 3: As part of its local policy and procedure development, the local area *must* determine if it wishes to issue all Notices of Banishment at the local level, *or* if it desires to have all Notices of Banishment issued through the Commonwealth's Executive Office of Labor and Workforce Development (EOLWD) Office of Internal Control and Security.

NOTE 4: Local areas *may not* implement a policy by which it may choose to have some Notices of Banishment issued locally while others are to be issued through the Commonwealth.

Notice of Banishment Issued by the EOLWD Office of Internal Control

For those local areas that choose to have the Notice of Banishment issued through the EOLWD Office of Internal Control and Security, upon finalizing the banishment recommendation, a copy of the local recommendation and all supporting documentation must be forwarded to the:

Executive Office of Labor and Workforce Development
Office of Internal Control and Security
Charles F. Hurley Building, Fourth Floor
Boston, MA 02114

NOTE 5: It must be noted that if a local area chooses to have the banishment letter issued by EOLWD Internal Control, the final determination as to whether the banishment will be implemented rests solely upon approval by the DWD legal counsel. However, in making the final decision as to whether or not to issue the banishment notice, the Commonwealth will give *full consideration* to the recommendation of the local area. In such cases the final determination as to whether or not to ban the individual will be the decision of the Commonwealth, and may, in some cases not reflect the actual recommendation of the local area.

If the decision to banish a customer is made by the Commonwealth, the banishment will be *permanent* in nature (no temporary periods of banishment will be made by the Commonwealth). Additionally, upon the Commonwealth's review of the facts of the individual case and depending upon the specific circumstances, the banishment may be for either a single career center location, a group of career centers within a local area or on a statewide basis.

Within 24 hours of receipt of the decision of the DWD legal counsel, Internal Control will send a formal Letter of Notification of Banishment to the customer. Internal Control will also forward a copy of the Letter of Notification of Banishment to the originator of the recommendation. The letter will include contact information directing all inquiries from the customer back to Internal Control.

Internal Control will also notify the local area in those cases in which the Commonwealth determines that the facts of the case do not warrant banishment of an individual.

NOTE 6: For each banishment determination made by the Commonwealth based on the recommendation of a local area, it will be the responsibility of the originating local area to enter the notice of banishment into MOSES Notes.

NOTE 7: While an individual cannot *appeal* the banishment decision, and notwithstanding whether the banishment letter is issued by either the local area or by the Commonwealth, the affected customer, if he/she so wishes *does not lose his/her right* to file a formal complaint following the procedures implemented by the local area consistent with requirements described in WIA Communication No. 05-89, Unified Workforce Investment System Complaint Process (12/28/05).

Violent Behavior

With respect to an immediate threat of violent behavior occurring within any local career center system location, the procedures specifically delineated in the applicable local Workplace Safety Plan should be followed.

Each area must update its local Workplace Safety Plan (or plans in the case of the local area requiring individual Safety Plans for each career center location) and/or local Code of Conduct to include a warning/sanctioning policy and process to address *non-violent*, and if not yet included, *violent* customer offenses. As referenced above, the local area's choice for its Notice of Banishment procedure must be included in the updated submission.

Two copies of the updated version of the Workplace Safety Plan and/or Code of Conduct (highlighting any newly added or revised language) must be forwarded by close of business, August 29, 2008 to:

Jeffrey Merra, Chief of Workplace Security
Department of Workforce Development
Charles F. Hurley Building, Fourth Floor
19 Staniford Street
Boston, MA 02114

NOTE 8: As MOSES Notes (non-confidential) will be the mechanism by which notice of a customer's sanctioning or banishment is officially transmitted to other One-Stop Career Centers and workforce development locations, local staff registering a new customer should check for an existing MOSES record and review the Notes section.

NOTE 9: A customer does not lose his/her right to request redress (either informally or formally) through the local complaint process when a determination

of sanction or banishment has been made. All written notifications of sanction and banishment should apprise the individual of his/her rights to file a formal complaint in conjunction with the locally established complaint policy and procedures. However, a customer's request to seek redress through the local complaint system (either informally or formally) *is not cause* to suspend or delay the sanction or banishment terms until redress through the complaint process (including all levels of appeal) have been exhausted.

Effective: Immediately

References: Workforce Investment Act of 1998;
WIA Communication No. 05-89, Unified Workforce Investment System Complaint Process;
WIA Communication No. 04-52, One-Stop Career Center Safety in the Workplace Plans; and
MA HRD Policy of Zero Tolerance for Workplace Violence

Inquiries: Please email all questions to PolicyQA@detma.org. Also, indicate Issuance number and description.