

Attachment B

WIOA Decertification and/or Failure to Meet Performance Accountability Measures

Decertification Language

CHAPTER 2 - LOCAL PROVISIONS

SEC. 106. LOCAL WORKFORCE DEVELOPMENT BOARDS

(c) APPOINTMENT AND CERTIFICATION OF BOARD -

(2) CERTIFICATION –

(C) FAILURE TO ACHIEVE CERTIFICATION - Failure of a local board to achieve certification shall result in appointment and certification of a new local board for the local area pursuant to the process described in Sec. 106(c)1.

(3) DECERTIFICATION -

(A) FRAUD, ABUSE, FAILURE TO CARRY OUT FUNCTIONS - Notwithstanding paragraph (2), the Governor shall have the authority to decertify a local board at any time after providing notice and an opportunity for comment, for -

(i) fraud or abuse; or

(ii) failure to carry out the functions specified for the local board in subsection (d)

(B) NONPERFORMANCE - Notwithstanding paragraph (2), the Governor may decertify a local board if a local area fails to meet the local performance accountability measures for such local area in accordance with section 116(c) for 2 consecutive program years.

(C) REORGANIZATION PLAN - If the Governor decertifies a local board for a local area under subparagraph (A) or (B), the Governor may require that a new local board be appointed and certified for the local area pursuant to a reorganization plan developed by the Governor, in consultation with the chief elected official in the local area and in accordance with the criteria established under subsection (b).

CHAPTER 4-PERFORMANCE ACCOUNTABILITY

SEC. 116. PERFORMANCE ACCOUNTABILITY SYSTEM.

(f) SANCTIONS FOR STATE FAILURE TO MEET STATE PERFORMANCE ACCOUNTABILITY MEASURES -

(1) STATES -

(A) TECHNICAL ASSISTANCE - If a State fails to meet the State adjusted levels of performance relating to indicators described in subsection (b)(2)(A) for a program for any program year, the Secretary of Labor and the Secretary of Education shall provide technical assistance, including assistance in the development of a performance improvement plan.

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(B) REDUCTION IN AMOUNT OF GRANT - If such failure continues for a second consecutive year, or (except in the case of exceptional circumstances as determined by the Secretary of Labor or the Secretary of Education, as appropriate) a State fails to submit a report under subsection (d) for any program year, the percentage of each amount that would (in the absence of this paragraph) be reserved by the Governor under section 128(a) for the immediately succeeding program year shall be reduced by 5 percentage points until such date as the Secretary of Labor or the Secretary of Education, as appropriate, determines that the State meets such State adjusted levels of performance and has submitted such reports for the appropriate program years.

(g) SANCTIONS FOR LOCAL AREA FAILURE TO MEET LOCAL PERFORMANCE ACCOUNTABILITY MEASURES -

(1) TECHNICAL ASSISTANCE - If a local area fails to meet local performance accountability measures established under subsection (c) for the youth, adult, or dislocated worker program authorized under chapter 2 or 3 of subtitle B for a program described in subsection (d)(2)(A) for any program year, the Governor, or upon request by the Governor, the Secretary of Labor, shall provide technical assistance, which may include assistance in the development of a performance improvement plan or the development of a modified local plan (or regional plan).

(2) CORRECTIVE ACTIONS –

(A) IN GENERAL - If such failure continues for a third consecutive year, the Governor shall take corrective actions, which shall include development of a reorganization plan through which the Governor shall -

- (i) require the appointment and certification of a new local board, consistent with the criteria established under section 107(b);
- (ii) prohibit the use of eligible providers and one-stop partners identified as achieving a poor level of performance; or
- (iii) take such other significant actions as the Governor determines are appropriate.

(B) APPEAL BY LOCAL AREA -

- (i) APPEAL TO GOVERNOR - The local board and chief elected official for a local area that is subject to a reorganization plan under subparagraph (A) may, not later than 30 days after receiving notice of the reorganization plan, appeal to the Governor to rescind or revise such plan. In such case, the Governor shall make a final decision not later than 30 days after the receipt of the appeal.
- (ii) SUBSEQUENT ACTION - The local board and chief elected official for a local area may, not later than 30 days after receiving a decision from the Governor pursuant to clause (i), appeal such decision to the Secretary of Labor. In such case, the Secretary shall make a final decision not later than 30 days after the receipt of the appeal.

(C) EFFECTIVE DATE - The decision made by the Governor under subparagraph (B)(i) shall become effective at the time the Governor issues the decision pursuant to such clause. Such decision shall

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remain effective unless the Secretary of Labor rescinds or revises such plan pursuant to subparagraph (B)(ii).