



MASSACHUSETTS

Workforce Investment Act

WIA Communication No. 01-41

Policy **Information**

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

cc: WIA State Partners

From: Jonathan Raymond, President
Commonwealth Corporation

Date: August 29, 2001

Subject: Process to Appeal Local Workforce Investment Board Denial of Eligibility as a Training Services Provider

Purpose: To provide guidance to the Local Workforce Investment Boards regarding the process to be used by Training Providers that wish to appeal the decision of a Local Workforce Investment Board to deny a vendor eligibility to provide training services.

Background: Workforce Investment Act, Section 122(g) and WIA Regulations at 20 CFR Part 667.640(b) require that, "The Governor shall establish procedures for providers of training services to appeal a denial of eligibility by the local board or the designated State agency".

Action

Required: This Policy is in effect for all Workforce Investment Act funds provided by Commonwealth Corporation. The following procedure shall be used by all Local Workforce Investment Boards to process and review appeals by service providers that have been denied eligibility status as training program providers or have had their subsequent eligibility terminated by a determination of a Local Board.

Please distribute copies of this policy to all appropriate individuals in your organization.

Effective: Effective for all Workforce Investment Act funds provided by the Commonwealth Corporation

References: Workforce Investment Act (WIA) Section 122(g); WIA Regulations at 20 CFR Parts 667.640(b).

Inquiries: Any questions related to this correspondence should be directed to Spencer Klein at (617) 727-8158 extension 2356.

Filing: Please file this in your notebook of previously issued WIA Communication Series Issuances as #01-41.

Inactive

**Workforce Investment Act
Process for Appealing Local Workforce Investment Board
Denial of Eligibility as a Training Provider**

I. OVERVIEW

Section 122(g) of the Workforce Investment Act requires that, “The Governor shall establish procedures for providers of training services to appeal a denial of eligibility by the local board or the designated State agency”. The following procedure shall be used by all Local Workforce Investment Boards to process and review appeals by service providers that have been denied eligibility status as training program providers or have had their subsequent eligibility terminated by a determination of a Local Board.

II. APPEALS PROCESS

A. Notice of Denial or Termination

Local Workforce Investment Boards must inform in writing the Commonwealth Corporation of the denial or termination of a service provider’s program(s). Upon receipt of the information, an official notification letter of denial of initial eligibility or termination of subsequent eligibility by the Local Workforce Investment Board containing the reasons for rejection, as well as the availability of the appeal process will be sent to rejected service providers by Commonwealth Corporation.

B. Submission

An appeal by the service provider for a hearing to reconsider initial or subsequent eligibility must be made in writing to the Commonwealth Corporation within thirty (30) calendar days from receipt of the notification letter to:

Commonwealth Corporation
The Schrafft Center
529 Main Street, Suite 110
Boston, MA 02129
Attn: Contracts Unit

Training providers requesting an appeal hearing should be prepared to document a specific factor (e.g. conflict of interest, nepotism, procedural non-adherence, etc.) which put the aggrieved training provider at a competitive disadvantage. Appeals will not be heard from providers simply because they believe their programs should have been selected or are superior to those that have been selected.

C. Notice of Hearing

Upon receipt of a written appeal request from a service provider, a written notice of an appeal hearing will be sent to the service provider and the Local Workforce Investment Board (or its representative). The notice will state the date, hour, place of the hearing, and the manner in which the proceeding will be conducted and the issues to be decided upon, based on the factor(s) outlined in the request for appeal. Hearings will be conducted by the Commonwealth Corporation's Grievance Officer, who will act as the Hearings Officer for the appeal process. Prior to the hearing, the service provider may withdraw the request for appeal in writing, or submit a written request for re-scheduling of the hearing for good cause which will be reviewed by the Hearings Officer and granted on a case by case basis.

D. Appeals Hearing

Hearings to reconsider initial or subsequent eligibility shall be conducted within thirty (30) calendar days of receipt of the written request for an appeals hearing. The aggrieved service provider will be given the opportunity at the hearing to:

- Bring witnesses and documentary evidence;
- Have records and documents produced by the Local Workforce Board Investment which document its decision;
- Question any witnesses or party to the case.
- Opportunity to be represented by legal counsel.

Decisions shall be rendered in writing to all parties not later than thirty (30) calendar days from the date of the hearing. Decisions rendered by the Commonwealth Corporation, as the Governor's authorized representative, will be final.

E. Informal Resolution

Upon receipt of a notice of appeal hearing, the Local Workforce Investment Board should attempt an informal resolution of the eligibility appeal. Attempts at informal resolution may proceed during the thirty (30) calendar day period between the appeal hearing and prior to the rendering of the final decision.