

Section 800.2, 800.178 and 800.191 Sanctions

The following amendments and new rule will be effective May 31, 2000.

The Texas Workforce Commission (Commission) adopts amendments to §800.2 relating to definitions, amendments to §800.191 relating to Appeals and new §800.178 relating to Sanctions under the Workforce Investment Act (WIA). Section 800.191 is adopted with changes to the proposed text as published in the March 24 issue of the *Texas Register* (25 TexReg 2556). Sections 800.2 and 800.178 are adopted without changes and will not be republished.

The adoption of the Review of 40 TAC, Chapter 800, Subchapter E, is being published in this same issue. As part of this review process, the Commission has adopted amendments to §§800.152, 800.177 and 800.181.

Background and Purpose. As provided by WIA (29 U.S.C. §2801*et seq*) and the federal regulations governing WIA (including 20 CFR 666.100 *et. seq*), the State is responsible for the monitoring and oversight of WIA-funded activities administered by the local workforce development boards (Boards) and, when necessary, imposing sanctions for certain violations of the statute or regulations. The State developed the WIA sanctions rules to meet these statutory and regulatory requirements.

The purpose of the changes is to provide a framework of oversight reflective of the WIA principles and the principles of Texas' vision as outlined in the Texas Strategic Five-Year State Workforce Investment Plan for Title I of the Workforce Investment Act of 1998 and the Wagner-Peyser Act for the Period of July 1, 1999--June 30, 2004 -- Transition Plan (State Plan). Specifically, the WIA principles are: streamlining services, empowering individuals, universal access, increased accountability, strong role for Boards and the private sector, and state and local flexibility. The four principles of Texas' vision are: limited and efficient state government, local control, personal responsibility, and support for strong families.

WIA and its implementing regulations have imposed on the Boards a number of duties and responsibilities for the administration of WIA-funded activities, including maintaining adequate fiscal systems, complying with the uniform rules for administration of grants and agreements, meeting the contract performance measures, and complying with all applicable state and federal statutes and regulations. The Commission is responsible for oversight of the Boards' activities and for identifying failure to meet contract performance levels or noncompliance with WIA or the State Plan.

The adopted rules emphasize the partnership between the Commission and the Boards in assuring compliance with WIA requirements. Section 800.178 describes the involvement of the Commission in preventive maintenance and related requirements under WIA to provide services through a One-Stop Service Delivery Network. The Commission requires that all workforce services, such as those funded under the Department of Labor, Welfare-to-Work (WtW) block grant, be integrated into the One-Stop Centers. The Commission will withhold WIA administrative funds for failure to establish a fully integrated One-Stop Service Delivery Network, which includes WtW, among other services for which the Boards receive funds under contract with the Commission. The purpose of preventive maintenance is to assist the Boards in correcting deficiencies and meeting WIA statutory, regulatory and contract responsibilities. If preventive maintenance and initial corrective actions are not successful in assisting the Boards with compliance, the Commission will consider the sanction actions described in §800.178 to ensure that WIA services continue to be available in the workforce areas and that there is no interruption of services. The amendment to §800.191 clarifies that appeals to sanctions relating to WIA are not governed by §800.191 and that the hearing officer submits the proposal for decision to the Commission's executive director for final decision.

Comments were received from Boards including the Dallas County Workforce Development Board, the North Central Workforce Development Board, the Permian Basin Workforce Development Board, the South East Texas Workforce Development Board, the Texoma Workforce Development Board, and the West Central Workforce Development Board. Responses to the comments are as follows. Any changes to the language of the proposed rules are explained in the responses to the comments or for the purposes of clarity.

The review, amendments and new section are adopted under Texas Labor Code §§301.061 and 302.002, which provide the Commission with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of Commission services and activities.

Comment: Regarding §800.177, the commenter recognized the need for sanctions related to participation rates since these are federal requirements; however, since the Commission has not been able to provide accurate information in a timely manner, the commenter recommended that this section be removed until the appropriate data can be provided to the Commission and Boards. A commenter also expressed concern that failure to attain participation rates results in a loss of funds and stated that it seems to imply that there is a direct relationship between expenditures and participation rates. The commenter further stated that if this can be documented as consistently valid, this would be an appropriate sanction; however, if this cannot be demonstrated, alternate sanctions already identified in §800.171 would be more reasonable. The commenter

encouraged the Commission to examine the data to determine if there is in fact a direct relationship between expenditures and participation rates prior to considering implementation of this section.

Response: Section §800.177 was not amended nor part of the proposed changes as published in the Texas Register. In addition, this section has been in place since April 1998, at which time the rules were adopted after a thirty-day public comment period and the Commission considered public comments prior to adopting the existing rule.

Comment: One commenter stated observations regarding the context and effect of the rules as follows: the WIA performance issues are new and there is little history concerning correcting performance; early figures from the wage data for the JTPA completions and results cause concern; the model includes too much time between actions and recorded results; Boards will require equal time to correct poor performance; through efforts in the TANF program two to four month delays were experienced in performance reporting and a three to four month period is necessary to register the results for any systemic correction; and the WIA program and the chosen performance model will amplify the delay to between 13 and 15 months between performance and recorded results. The commenter strongly urged the Commission to consider the relevance of any performance improvement plan within this model and the proposed rule, and commented that it would appear that a second year of failed performance might already be guaranteed prior to reporting a first year failure. The commenter requested that the Commission research the issue prior to formal acceptance of this rule and stated that the strategies for improving performance can only be successful if time permits.

Response: The WIA performance system does require the use of UI wage record data. This is part of the WIA performance system that is specifically described in the statute. The Commission did not choose this model but is complying with federal requirements. The time lag for UI wage record data will require consideration as part of the sanctions process but the five month lag for the entered employment measures should allow for a more reasonable time between performance and results than cited in the comment. There is an eleven month lag in obtaining performance data for the measures requiring a two quarter period for wage gain and job retention, and these will be difficult to apply to the sanctions process. The Commission is currently researching performance measures for WIA that are based on data that does not require UI wage records. However, the state will have to maintain compliance with the WIA performance system required by federal law. Boards must take intermediate steps, closely monitor performance, and anticipate meeting standards. One effective tool the Boards may utilize is the Funds Utilization Service Level reports and monthly expenditure reports as referenced in the proposed reallocation rules, published in the Texas Register on April 28, 2000, that are anticipated to be adopted after public

comments are considered by the Commission. For these reasons, the Commission does not agree that the language in the rule requires modification.

Comment: Regarding §800.178, one commenter asked whether, under WIA rules for second year non-performance, the sanctions are set in the rule or are these Commission's rules. The commenter stated that the sanctions are too severe. The commenter asked how a Board can be decertified when the chief elected officials (CEO) are involved in the creation of the Board. The commenter stated that merging workforce areas creates a political as well as logistic problem. The commenter also stated that having two areas merge with areas having different interests or problems goes back to a centralized form of governmental management and takes away local control. The commenter further stated a concern that decisions are made without due consideration of the difference in areas such as the size and complexity of a merged workforce area. The commenter stated that political and logistical problems arose several times while the Board was getting up and organized and that the problem could be even larger when other programs are added because a Board might end up over two operations, which would be confusing and stressful for the Board's Executive Director and management staff.

Response: The Commission asserts that the sanctions set forth in §800.178 reiterate the sanctions set forth in WIA §§136 and 184 and in state law in Texas Government Code §§2308.268 and 2308.269 that are applicable to the federal funding. Additionally, the sanctions are the same as the sanctions provided for in predecessor law and those that have been applied in Texas. Furthermore, the formation of a Board is governed by prior consistent law contained in Texas Government Code Chapter 2308, and the authority for decertifying a Board is expressly set forth in §136(h)(2) as within the authority of the State. The Commission appreciates the significant efforts entailed in ensuring effective local coordination and regional cooperation and the added efforts by Boards to address all interests as well as the complexities that arise when a Board is faced with decertification. Likewise, the Commission encourages the Boards to strive to ensure that decertification and reorganization are never necessary. The Commission anticipates making every effort to work with Boards to avoid having to recommend such an admittedly drastic action. However, the Commission is required by Texas Government Code Chapter 2308 and WIA to ensure effective administration of workforce training and services to workforce areas and acknowledges the need to maintain the ability to make the full range of sanctions available. For these reasons, the Commission does not agree that the language in the rule requires modification.

Comment: Regarding §800.178, one commenter also recommended that when the Commission analyzes the second year reorganization plan, the Commission should include a statement where the Commission's Technical Assistance Division would be

working with the Board's preventive measures. Local communities and customers suffer when a Board's local structure is reorganized.

Response: The Commission asserts that preventive maintenance would have been provided prior to second year reorganization. For this reason, the Commission does not agree that the language in the rule requires modification.

Comment: Regarding §800.178, one commenter observed that if every Board decided to re-procure for service provider contracts to operate the workforce centers, the Commission could discover that there is a shortage of good quality service providers in the market.

Response: The Commission agrees that service providers may vary in the degree of quality and effectiveness and encourages Boards to avoid the need for the Commission to impose the sanction of prohibiting a Board from using a particular service provider. Specifically, the Commission encourages the Boards to utilize effective monitoring tools as referenced in Chapter 800 Subchapter I relating to monitoring. Likewise, the Commission encourages the Boards to take other proactive oversight and other contract management actions as appropriate to ensure that the Commission is not required to impose a sanction. The Commission's experience is that sufficient numbers of providers emerge when there is free and open competition. For these reasons, the Commission does not agree that the language in the rule requires modification.

Comment: Regarding §800.178, one commenter stated that performance standards are a very real issue for Boards and will impact the status of sanctions in various ways. The commenter stated that the Commission and the Boards must be careful to negotiate realistic performance standards in the next cycle. The commenter asserted that the programs that serve the needs of individuals do not necessarily meet performance standards. The commenter stated that lag time for WIA reporting can also affect those standards. The commenter urged the Commission to be very careful in setting local performance standards for each board. A second commenter stated that it is highly possible that a Board's service provider could have all the program designs in place and still fail to meet performance standards. The second commenter strongly encouraged the Commission to negotiate realistic performance standards for Boards and stated that there are far too many performance standards.

Response: The Commission is required by state and federal law, including WIA and prior consistent state law, to ensure effective administration of workforce training and services. The State in the past has obtained agreement from the United States Department of Labor that local level negotiations occur prior to setting state standards to ensure reasonable local and state performance measures. The State developed a

multiple regression model to adjust performance to account for local economic conditions and characteristics of participants served. The model allows the Commission to establish reasonable and appropriate performance standards for local areas. Compliance with program designs should be embedded in any service delivery and performance should reflect the quality of the implementation of a compliant program design. The purpose of each performance standard is designed to effectuate utilization of funding throughout the State in a manner consistent with assisting as many eligible participants as possible with accessing and availing themselves of the workforce training and services offered through federal and state and local funding resources. The Commission does not set the number of performance measures. Rather, the number of performance measures are set through federal statute and the State General Appropriations Act. For these reasons, the Commission does not agree that the language in the rule requires modification.

Comment: Regarding §800.178(d)(1) and (2), one commenter recommended that the phrase "chief elected officials" be deleted from both these sections. The commenter stated that the chief elected officials may not be grant recipients and have not been parties to the Board's Master Contract with the Commission.

Response: WIA §184 specifically requires that the CEOs comply with the appropriate uniform administrative requirements and provides that a substantial violation of a specific provision of Title I of WIA requires the imposition of sanctions. For these reasons, the Commission does not agree that the language in the rule requires modification.

Comment: Regarding §800.178(d)(4)(B), one commenter suggested that it is unclear why the Texas Council on Workforce and Economic Competitiveness (TCWEC) would issue a notice of intent to cease immediately reimbursement of all program costs when TCWEC does not have a contractual relationship with the Board. The commenter asked whether this language should be changed to reflect that TCWEC will instruct the Commission to issue a notice.

Response: Texas Government Code §2308.269 requires that TCWEC impose sanctions if the Commission finds a substantial violation, and one of the possible sanctions is to issue a notice of intent to cease reimbursement. The Commission anticipates that TCWEC will issue notice to the Commission and the Commission would then issue a notice to the Board. For these reasons, the Commission does not agree that the language in the rule requires modification.

Comment: Regarding §800.178(f), one commenter requested that the definition of repayment reflect the language within the master contract and recommended the following language: "The Board shall be held liable for all debts to the Commission

and shall resolve such matters in accordance with Section 30 of the Master Contract. After exhausting all other possible remedies, and provided no other resolution is acceptable, the Board and the chief elected officials (CEOs) shall be liable in accordance with WIA Section 117(d)(3)(B)(i)(I), to the extent allowed by law." The commenter asked if the Commission will exercise the same sequential remedies that are included in Section 30 of the Master Board Contract prior to requiring repayment from both the Board and chief elected officials under this proposed section.

Response: The language in the rule is general in nature and tracks the language of WIA §117(d)(3)(B)(i)(I) as it relates to CEO's liability. This provision in WIA provides that the CEOs are ultimately and finally responsible. However, the Commission agrees that the language in the Master Contract sets forth more specific provisions, including the sequential remedies, for methods of recouping funds from the Board and CEOs, including providing for the timely collection of funds from specific resources or other entities in a manner to reduce the CEO's liability. The Commission would add that all avenues under the contract to resolve disputes will be pursued to assist CEO's in meeting their liability. For these reasons, the Commission does not agree that the language in the rule requires modification. Likewise the section number referenced in the rule may change making it impractical to reference specifically.

Comment: Regarding § 800.191, one commenter asked "Why is an appeal to TCWEC prohibited?" and "If TCWEC made the decision to decertify then why couldn't the Board appeal the decision and have a chance to state the Board's case?"

Response: The purpose of the language in the rule is to clarify that actions by other entities such as TCWEC would not be governed by the provisions in this rule. The Commission can only establish procedures related to its own authority, not another agency. The rule is not intended to indicate that an appeal to TCWEC is prohibited. The appeal provisions relating to decertification are set forth in WIA §136. For these reasons, the Commission does not agree that the language in the rule requires modification.

Commenter: Regarding §800.191, one commenter questioned why there is no provision for Boards to appeal the Commission's decision to forward recommendations to the TCWEC under subsections 800.178(b), 800.178(c), and 800.178(d)(4) of the proposed rule. Another commenter asked if TCWEC was apprised of this rule and of TCWEC's need to have an appeals procedure for actions TCWEC may take on Commission recommendations under this subsection.

Response: The Commission believes that judicial economy would require that any appeal regarding the forwarding of recommendations to TCWEC would be

duplicative or subsumed within an appeal of any resulting adverse action taken by TCWEC. The Commission also asserts that there are a number of other reasons that support not developing an appeal process from mere recommendations to TCWEC, including the following: The added appeal process would potentially cause undue delays and added administrative costs that would potentially hamper the Commission's ability to efficiently make recommendations to TCWEC and thereby hamper the Commission's and the State's ability to ensure that federal and state funds are not wasted. For that reason, the Commission does not see a need to modify the rule at this time. The role of TCWEC regarding sanctions is set forth in part in WIA and in part in the provisions in Texas Government Code Chapter 2308. In cases of second year non-performance of any kind, TCWEC has final authority to determine the necessity for the imposition of sanctions and the sanction to impose under the law. In the case of non-compliance with requirements, TCWEC has the final authority to determine the appropriate sanction under the law. The Commission has given TCWEC the opportunity to comment on the proposed rules. For these reasons, the Commission does not agree that the language in the rule requires modification.

Comment: Regarding §800.191(b), two commenters suggested that the Commission change the language to read, "...within ten working days of the date of receipt of notice ..." One commenter stated that it is impossible to hold the Board liable for a response in correspondence that is delayed internally, delayed by the post office, or never sent through some internal mix-up. One commenter also stated that the date of delivery should be verified through "return receipt requested," and the clock should begin from that date. One commenter also asserted that fax should not be an allowable substitute for something of this legal weight. One commenter further stated that if the Commission elects to incorporate the proposed change, the language should be incorporated throughout the sanction and de-obligation policies and asserted that the language agreement throughout the process is critical to the integrity of the process. A second commenter stated that counting from the date of receipt would allow for adequate time for local response.

Response: The Commission agrees with the recommendation of the commenter to change the date to the date of receipt of notice to afford the Boards of a full ten working days after notice has been received. The rule will be changed accordingly.

Comment: Regarding §800.191(c), two commenters recommended that language be added to clarify that the hearing officer will be an individual outside of the Commission and outside the supervision of the Commission's Executive Director. One commenter suggested that the use of a Commission employee could be perceived as a conflict-of-interest or lack of impartiality in the hearing. A second commenter asked whether this is the formal hearing process or some interim step. The second commenter stated that the commenter was under the impression that the formal appeal

would go to a specific state entity charged with hearing such appeals. The second commenter believed that both processes should exist: a less formal internal appeal, and the formal appeal to be conducted by an independent third party.

Response: Section 800.191(c) was included to clearly establish the right of a Board to appeal the imposition of a sanction. The procedures of that appeal would be determined by the requirements of the federally funded program involved and the nature of the Board's deficiency. The Commission may utilize impartial hearing officers from inside the agency or outside the agency. The Commission asserts that an impartial hearing officer is free from bias relating to any findings resulting from a hearing, whether that hearing is conducted within the agency or outside the agency because the hearing officers are bound by ethics. To further clarify and resolve any perceived conflict of interest, the Commission recognizes the need to modify the appeals procedure to allow for another level of review. To add this level of review, the Commission will amend the appeals procedure to enable the Workforce Development Director to make the initial decision regarding any sanctions to be imposed. If a timely appeal from the initial decision is filed, the sanction will then be reviewed by the Commission's Executive Director. The Commission feels that modifying the review process in this way will ensure integrity in the review process and this should adequately address the commenter's concerns.

Comment: In general, one commenter expressed hope that the comments would assist the Commission in the decision making process and that the Commission will continue to provide meaningful comment opportunities to local partners. Further, the commenter expressed appreciation for the opportunity to offer verbal and formal written comments on the proposed sanction rules. The commenter also expressed thanks for the Commission working to make this process inclusive and meaningful. Another commenter also stated that the Board appreciated the opportunity to provide comments on these proposed rules.

Response: The Commission benefits greatly from the comments provided by the Boards and the public, and appreciates the time spent by Board chairs, Board members and Board executive directors, as well as other members of the public in sending comments to the Commission for consideration.

The amendment is adopted under Texas Labor Code §§301.061 and 302.002, which provide the Commission with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of Commission services and activities.

§800.2. Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Commission--The Texas Workforce Commission as established in the Texas Labor Code §301.001.

(2) Board -- Local Workforce Development Board created pursuant to Texas Government Code §2308.253 and certified by the Governor pursuant to Texas Government Code §2308.261. This includes such a Board when functioning as the Local Workforce Investment Board as described in the Workforce Investment Act §117, including those functions required of a Youth Council, as provided for under the Workforce Investment Act §117(i) (also referred to as an LWDB).

(3) TCWEC -- Texas Council on Workforce and Economic Competitiveness appointed by the Governor pursuant to Texas Government Code § 2308.052 and functioning as the State Workforce Investment Board (SWIB), as provided for under the Workforce Investment Act §111(e). In addition, pursuant to the Workforce Investment Act §194(a)(5), TCWEC maintains the duties, responsibilities, powers and limitations as provided for in the Texas Government Code §§2308.101-2308.105.

(4) WIA -- Workforce Investment Act, Public Law 105-220, 29 U.S.C.A. §2801 *et seq.*

(5) WIA program year -- The period of time from July 1 of one year through June 30 of the following year.

(6) Workforce area -- A local workforce development area designated by the Governor pursuant to Texas Government Code § 2308.252 and functioning as a Local Workforce Investment Area, as provided for under the Workforce Investment Act §116 and §189(i)(2) (also referred to as an LWDA).

The amendment and new section are adopted under Texas Labor Code §§301.061 and 302.002, which provide the Commission with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of Commission services and activities.

§800.178. Sanctions Under the Workforce Investment Act (WIA)

(a) Preventive Maintenance.

(1) If a Board fails to meet contract performance measures for youth activities in WIA, Title I, Chapter 4; adult employment and training activities in WIA, Title I,

Chapter 5; or dislocated worker employment and training activities in WIA, Title I, Chapter 5, in any WIA program year, the Commission may require that, within a specified period of time, the Board:

(A) complete a performance improvement plan,

(B) modify its local plan, or

(C) take other action designed to improve the Board's performance.

(2) A Board's failure to complete the corrective measures described in subsection (a)(1) of this section within the specified time limits may result in the Commission imposing sanctions under this subchapter and withholding WIA payments to the Board.

(b) Sanctions for Second-Year Nonperformance. If a Board fails to meet the contract performance measures for youth activities in WIA, Title I, Chapter 4; adult employment and training activities in WIA, Title I, Chapter 5; or dislocated worker employment and training activities in WIA, Title I, Chapter 5, for one or more of the same measures for two consecutive WIA program years in a two-year period beginning on or after July 1, 2001, the Commission shall make a recommendation to TCWEC that it impose a reorganization plan for the workforce area which may include:

(1) restructuring the Board, including decertification of the current Board and appointment and certification of a new Board,

(2) prohibiting the use of particular service providers, including state agencies, and one-stop operators,

(3) merging the workforce area into one or more other workforce areas, or

(4) taking such other actions as determined appropriate.

(c) Sanctions for Second-Year Nonperformance During Transition. If a Board fails to meet the contract performance measures for 50% or more of the measures for youth activities in WIA, Title I, Chapter 4; adult employment and training activities in WIA, Title I, Chapter 5; or dislocated worker employment and training activities in WIA, Title I, Chapter 5, for two consecutive WIA program years in a two-year period beginning on or after July 1, 1999 and ending on or before June 30, 2002, the Commission shall make a recommendation to TCWEC that it impose a reorganization plan for the workforce area which may include:

(1) restructuring the Board, including decertification of the current Board and appointment and certification of a new Board,

(2) prohibiting the use of particular service providers, including state agencies, and one-stop operators,

(3) merging the workforce area into one or more other workforce areas, or

(4) taking such other actions as determined appropriate.

(d) Sanctions for Noncompliance with Requirements.

(1) Each workforce area, including the Board, chief elected officials, one-stop operators and service providers receiving WIA funds, shall comply with the appropriate uniform administrative requirements for grants and agreements applicable for the type of entity receiving funds as promulgated in circulars or rules of the Office of Management and Budget's Uniform Grant Management Standards.

(2) Each workforce area, including the Board, chief elected officials, one-stop operators, and service providers receiving WIA funds, must comply with Title I of WIA, as well as all other federal and state laws and regulations.

(3) If the Commission finds that a Board is not in compliance with the requirements of subsection (d)(1) of this section, or is in substantial violation of subsection (d)(2) of this section, the Commission shall require corrective action to secure prompt compliance and may impose sanctions as provided under this subchapter.

(4) If the Commission finds that a Board has not taken the required corrective action in the time specified, the Commission shall make a recommendation to TCWEC that TCWEC:

(A) issue a notice of intent to revoke all or part of the local plan,

(B) issue a notice of intent to cease immediately reimbursement of local program costs,

(C) select an alternate entity to administer WIA for the Board involved,

(D) restructure the Board including decertification of the current Board and appointment and certification of a new Board,

(E) prohibit the Board from using particular service providers, including state agencies, and one-stop providers,

(F) merge the workforce area into one or more other workforce areas, or

(G) make such other changes as deemed necessary to secure compliance.

(e) Sanctions for Failures Regarding the One-Stop Service Delivery Network. Failure of a Board to ensure the establishment and operation of a one-stop service delivery network as required by WIA §121 and 40 TAC Chapter 801, Subchapter B, One-Stop Service Delivery Network, may result in the imposition of sanctions as provided in 40 TAC Chapter 800, Subchapter E, Sanctions, and the Commission's withholding of payment for any WIA administrative expenses until the Board can demonstrate to the satisfaction of the Commission that all of the required elements of a One-Stop Service Delivery Network are operational.

(f) Repayment. The Board and chief elected officials shall be jointly and severally liable for repayment to the Commission from nonfederal funds for WIA expenditures in the workforce area which are found by the Commission not to have been expended in accordance with the WIA.

(g) Other Sanctions. In addition to the preventive maintenance and sanctions provisions in §800.178(a)-(f), in the administration and provision of WIA services, Boards and contractors receiving WIA funds shall also be subject to all sections of Subchapter E, relating to Sanctions Rules.

§800.191. Appeal

(a) Boards may appeal the actions of the Commission's **Director of Workforce Development**; however, a recommendation to another entity by the Commission under §800.178 of this section, relating to Sanctions Under the Workforce Investment Act, may not be appealed under this section.

(b) Requests for appeal must be submitted within ten working days **following the receipt of the notice of sanction action. The appeal must be submitted to the** General Counsel, Texas Workforce Commission, 101 East 15th Street, Room 614, Austin, Texas 78778.

(c) Requests for appeal will be referred to a hearing officer. The hearing officer will receive oral and written evidence from both parties and prepare a written proposal for decision to be submitted to the Commission's executive director for final decision.