

1 **CHAPTER 800. GENERAL ADMINISTRATION**

2  
3 **ADOPTED RULES WITH PREAMBLE TO BE SUBMITTED TO THE TEXAS REGISTER.**  
4 **THIS DOCUMENT WILL HAVE NO SUBSTANTIVE CHANGES BUT IS SUBJECT TO**  
5 **FORMATTING CHANGES AS REQUIRED BY THE TEXAS REGISTER.**  
6

7 The Texas Workforce Commission (Commission) adopts amendments, *without* changes, to the  
8 following sections of Chapter 800 relating to General Administration, as published in the July  
9 13, 2007, issue of the *Texas Register* (32 TexReg 4341):  
10

11 Subchapter E, Sanctions, §800.152 and §800.191  
12

13 The Commission adopts the following new sections, *without* changes, to Chapter 800, relating to  
14 General Administration, as published in the July 13, 2007, issue of the *Texas Register* (32  
15 TexReg 4341):  
16

17 Subchapter E, Sanctions, §§800.192 - 800.195 and 800.197 - 800.200  
18

19 The Commission adopts the following new section, *with* changes, to Chapter 800, relating to  
20 General Administration, as published in the July 13, 2007, issue of the *Texas Register* (32  
21 TexReg 4341):  
22

23 Subchapter E, Sanctions, §800.196  
24  
25

26 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**

27 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS WITH COMMENTS AND**  
28 **RESPONSES**  
29  
30

31 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**  
32

33 The purpose of the adopted rule change is to establish streamlined and administratively efficient  
34 appeals procedures for Local Workforce Development Boards (Boards) sanction hearings.  
35

36 Under a separate, but concurrent rulemaking, the Commission has repealed Chapter 823, General  
37 Hearings rules, and adopts new Chapter 823, Integrated Complaints, Hearings, and Appeals  
38 rules. Certain sections of repealed Chapter 823 have been modified and incorporated into this  
39 chapter, which sets forth procedures for appeals of Board sanction determinations.  
40  
41

42 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS WITH COMMENTS AND**  
43 **RESPONSES**

44 **(Note: Minor, nonsubstantive editorial changes are made that do not change the meaning of the**  
45 **rules and, therefore, are not discussed in the Explanation of Individual Provisions.)**  
46  
47

1 **SUBCHAPTER E. SANCTIONS**

2 **The Commission adopts amendments to Subchapter E, as follows:**

3  
4 **§800.152. Definitions**

5 Section 800.152 adds new definitions, which are retained with minor modifications, from the  
6 concurrent repeal of Chapter 823.

7  
8 Section 800.152(2) defines a "hearing" as an informal, orderly, and readily available proceeding  
9 held before an impartial hearing officer at which a party or hearing representative may present  
10 evidence to show that the Agency's determination of sanctions shall be reversed, affirmed, or  
11 modified.

12  
13 Section 800.152(3) defines a "hearing officer" as an Agency employee designated to conduct  
14 hearings and issue proposals for decisions.

15  
16 Section 800.152(4) defines a "hearing representative" as any individual authorized by a party to  
17 assist the party in presenting the party's appeal. A hearing representative may be legal counsel or  
18 another individual. Each party may have a hearing representative to assist in presenting the  
19 party's appeal.

20  
21 Section 800.152(8) defines a "party" as the person or entity with the right to participate in a  
22 hearing authorized by applicable statute or rule.

23  
24 Certain subsections in §800.152 have been renumbered to accommodate additions or deletions.

25  
26 **§800.191. Appeal**

27 Section 800.191(b) adds that an appeal shall be in writing.

28  
29 Section 800.191(c) clarifies that the Agency shall refer the request for appeal to an impartial  
30 hearing officer. The requirement of the hearing officer to receive oral and written evidence and  
31 to prepare a written proposal for a decision to be submitted to the executive director for a final  
32 decision is removed and relocated in new §800.197.

33  
34 Section 800.191(d) states that the decision of the Agency's executive director shall be final. This  
35 requirement is removed and relocated in new §800.200.

36  
37 New §800.191(d) provides that the Agency shall mail a written notice of hearing to the Board  
38 (and its representative, if any), which contains:

- 39 (1) the date, time, place, and nature of the hearing;  
40 (2) the legal authority under which the hearing is to be held; and  
41 (3) a brief summary of the issues to be considered during the hearing.

42  
43 **§800.192. Hearing Procedures**

44 New §800.192 sets forth procedures for conducting Board sanction hearings.

1 Section 800.192(a) provides that the hearing must be held in person in Austin, Texas, unless the  
2 parties agree to a telephonic hearing or request a different location.

3  
4 Section 800.192(b) requires that the hearing be conducted informally to determine the substantial  
5 rights of the parties. This subsection also states that all issues relevant to the appeal must be  
6 considered and addressed, and may include:

- 7 (1) presentation of evidence;  
8 (2) examination of witnesses and parties;  
9 (3) additional evidence; and  
10 (4) appropriate hearing behavior.

11  
12 Section 800.192(c) states that:

- 13 (1) the hearing record must include the audio recording of the proceeding and any other relevant  
14 evidence relied on by the hearing officer, including documents and physical evidence entered as  
15 exhibits;  
16 (2) the hearing record must be maintained according to federal and state law; and  
17 (3) the confidentiality of information contained in the hearing record must be maintained  
18 according to federal and state law.

19  
20 **§800.193. Postponements, Continuances, and Withdrawals**

21 New §800.193 authorizes the hearing officer to grant a hearing postponement, continuance, or  
22 withdrawal.

23  
24 Section 800.193(a) allows the hearing officer to grant a postponement of the hearing for good  
25 cause, at the party's request.

26  
27 Section 800.193(b) states that a continuance may be ordered at the discretion of the hearing  
28 officer to consider additional, necessary evidence or for any other reason the hearing officer  
29 deems appropriate.

30  
31 Section 800.193(c) provides that a Board may withdraw an appeal at any time prior to the  
32 issuance of the final decision.

33  
34 **§800.194. Evidence**

35 New §800.194 sets forth the evidence procedures for hearings.

36  
37 Section 800.194(a), Evidence Generally, provides that evidence, including hearsay evidence,  
38 shall be admitted if it is relevant and if in the judgment of the hearing officer it is the kind of  
39 evidence on which reasonably prudent persons are accustomed to rely in the conduct of their  
40 affairs. However, the hearing officer may exclude evidence if its probative value is outweighed  
41 by the danger of unfair prejudice, by confusion of the issues, or by reasonable concern for undue  
42 delay, waste of time, or needless presentation of cumulative evidence.

43  
44 Section 800.194(b), Exchange of Exhibits, states that any documentary evidence to be presented  
45 during a telephonic hearing shall be exchanged with all parties with a copy given to the hearing

1 officer in advance of the hearing. Any documentary evidence to be presented at an in-person  
2 hearing shall be exchanged at the hearing.

3  
4 Section 800.194(c), Stipulations, states that parties, with the consent of the hearing officer, may  
5 agree in writing to relevant facts. The hearing officer may decide the appeal on the basis of such  
6 stipulations or, at the hearing officer's discretion, may set the appeal for hearing and take such  
7 further evidence as the hearing officer deems necessary.

8  
9 Section 800.194(d), Experts and Evaluations, states that if relevant and useful—testimony from  
10 an independent expert or a professional evaluation from a source satisfactory to the parties and  
11 the Agency may be ordered by the hearing officers, on their own motion, or at a party's request.  
12 Any such expert or evaluation shall be at the expense of one of the parties.

13  
14 Section 800.194(e), Subpoenas, states that:

15 (1) The hearing officer may issue subpoenas to compel the attendance of witnesses and the  
16 production of records. A subpoena may be issued either at the request of a party or on the  
17 hearing officer's own motion.

18 (2) A party requesting a subpoena shall state the nature of the information desired, including  
19 names of any witnesses and the records that the requestor feels are necessary for the proper  
20 presentation of the case.

21 (3) The request shall be granted only to the extent the records or the testimony of the requested  
22 witnesses appears to be relevant to the issues on appeal.

23 (4) A denial of a subpoena request shall be made in writing or on the record, stating the reasons  
24 for such denial.

25  
26 **§800.195. Hearing Officer Independence and Impartiality**

27 New §800.195 relates to the Agency's hearing officers' powers and impartiality and the grounds  
28 and process for the disqualification and withdrawal of hearing officers.

29  
30 Section 800.195(a) provides that a hearing officer has all necessary powers to conduct a full, fair,  
31 and impartial hearing. Hearing officers shall remain independent and impartial in all matters  
32 regarding handling of any issues during the pendency of a case and in issuing their written  
33 proposals for decisions.

34  
35 Section 800.195(b) specifies that a hearing officer shall be disqualified if the hearing officer has  
36 a personal interest in the outcome of the appeal or if the hearing officer directly or indirectly  
37 participated in the determination on appeal. Any party may present facts to the Agency in  
38 support of a request to disqualify a hearing officer.

39  
40 Section 800.195(c) allows the hearing officer to withdraw from a hearing to avoid the  
41 appearance of impropriety or partiality.

42  
43 Section 800.195(d) provides that upon disqualification or withdrawal, the Agency shall assign an  
44 alternate hearing officer to the case. This alternate hearing officer is not bound by any findings  
45 or conclusions made by the disqualified or withdrawn hearing officer.

1 **§800.196. Ex Parte Communications**

2 New §800.196 is intended to prevent improper communication with hearing officers and to  
3 ensure that their decisions are based solely on the evidence and arguments presented at the  
4 hearing. The section states that:

5  
6 (a) The hearing officer shall not participate in ex parte communications, directly or indirectly, in  
7 any matter in connection with any substantive issue, with any interested person or party.  
8 Likewise, no person shall attempt to engage in ex parte communications with the hearing officer  
9 on behalf of any interested person or party.

10  
11 (b) If the hearing officer receives any such ex parte communication, the other parties shall be  
12 given an opportunity to review that communication.

13  
14 (c) Nothing shall prevent the hearing officer from communicating with parties or their  
15 representatives about routine matters such as requests for continuances or opportunities to  
16 inspect the file.

17  
18 (d) The hearing officer may initiate communications with an Agency employee who has not  
19 participated in a hearing or any determination in the case for the limited purpose of using the  
20 special skills or knowledge of the Agency and its staff in evaluating the evidence. Based on a  
21 comment received for Chapter 807, Career Schools and Colleges, regarding a hearing officer's  
22 communications with an "impartial" Agency employee, language has been added to this  
23 subsection specifying that the hearing officer may initiate communications with an impartial  
24 Agency employee. This change provides consistency with Chapter 807 regarding ex parte  
25 communications.

26  
27  
28 **§800.197. Hearing Decision**

29 New §800.197 sets out the Agency's procedures related to the preparation of a written proposal  
30 for a decision.

31  
32 Section 800.197(a) requires the hearing officer to promptly prepare a written proposal for  
33 decision following the conclusion of the hearing.

34  
35 Section 800.197(b) provides that the proposal for decision shall be based exclusively on the  
36 evidence of record in the hearing and on matters officially noticed in the hearing and state:

- 37 (1) a list of individuals who appeared at the hearing;  
38 (2) the findings of fact and conclusions of law reached on the issues; and  
39 (3) the affirmation, reversal, or modification of the sanctions.

40  
41 Section 800.197(c) provides that the proposal for decision shall be submitted to the Agency's  
42 executive director for issuance of a written decision on behalf of the Agency.

43  
44 Section 800.197(d) provides that unless a party files a timely motion for rehearing, the Agency  
45 may assume continuing jurisdiction to modify or correct a decision until the expiration of 30  
46 calendar days from the mailing date of the decision.

1  
2 **§800.198. Motion for Reopening**

3 New §800.198 sets forth the procedures for requesting a reopening of a hearing if a party is not  
4 able to participate in a hearing.

5  
6 Section 800.198(a) provides that a party who fails to appear at a hearing may request to reopen  
7 the hearing within 30 calendar days from the date the decision is mailed.

8  
9 Section 800.198(b) states that the motion for reopening must be in writing and detail the reason  
10 for failing to appear at the hearing.

11  
12 Section 800.198(c) provides that the hearing officer may schedule a hearing to consider granting  
13 the motion for reopening.

14  
15 Section 800.198(d) allows that if the hearing officer determines the party has shown good cause  
16 for failing to appear, the hearing officer may grant the motion.

17  
18 **§800.199. Motion for Rehearing**

19 New §800.199 sets forth the Agency's procedures for requesting a rehearing and the conditions  
20 under which a rehearing may be granted.

21  
22 Section 800.199(a) provides that a Board may file a motion for rehearing within 30 days from  
23 the date the decision is mailed. A rehearing shall be granted only for the presentation of new  
24 evidence.

25  
26 Section 800.199(b) requires that a motion for rehearing be in writing and set forth the new  
27 evidence for consideration.

28  
29 Section 800.199(c) states that if the hearing officer determines a rehearing is warranted, it shall  
30 be scheduled at a reasonable time and place.

31  
32 Section 800.199(d) requires the hearing officer to issue a written proposal for decision in  
33 response to a timely filed motion for rehearing. The proposal for decision shall be submitted to  
34 the Agency's executive director for issuance of a final decision.

35  
36 **§800.200. Finality of Decision**

37 New §800.200 sets forth the conditions under which the Agency's decision is finalized.

38  
39 Section 800.200(a) states that the decision of the executive director is the final administrative  
40 decision of the Agency after the expiration of 30 calendar days from the mailing date of the  
41 decision unless within that time:

- 42 (1) a request for reopening is filed with the Agency;  
43 (2) a request for rehearing is filed with the Agency; or  
44 (3) the Agency assumes continuing jurisdiction to modify or correct the decision.  
45

1 Section 800.200(b) provides that any decision issued in response to a request for reopening or  
2 rehearing or a modification or correction issued by the Agency shall be final on the expiration of  
3 30 calendar days from the mailing date of the decision, modification, or correction.

4  
5 No comments were received.

6  
7 The Agency hereby certifies that the adoption has been reviewed by legal counsel and found to  
8 be within the Agency's legal authority to adopt.

9  
10 The rules are adopted under Texas Labor Code §301.0015 and §302.002(d), which provide the  
11 Texas Workforce Commission with the authority to adopt, amend, or repeal such rules as it  
12 deems necessary for the effective administration of Agency services and activities, and the  
13 Human Resources Code §44.002, regarding Administrative Rules.

14  
15 The rules will affect Texas Labor Code, Title 4, particularly Chapter 301 and 302, as well as  
16 Texas Government Code, Chapter 2308.

17  
18

1 **Chapter 800. GENERAL ADMINISTRATION**

2  
3 **SUBCHAPTER E. SANCTIONS**

4  
5  
6 **§800.152. Definitions**

7  
8 The following words and terms when used in this chapter shall have the following  
9 meanings, unless the context clearly indicates otherwise.

- 10  
11 (1) Corrective Action Plan -- A plan developed and imposed by the Agency that  
12 requires a Board or other entity to take Agency-identified actions within a  
13 specified time frame designed to correct specific instances of noncompliance  
14 or other failures.
- 15  
16 (2) Hearing -- An informal, orderly, and readily available proceeding held before  
17 an impartial hearing officer at which a party or hearing representative may  
18 present evidence to show that the Agency's determination of sanctions shall be  
19 reversed, affirmed, or modified.
- 20  
21 (3) Hearing officer -- An Agency employee designated to conduct hearings and  
22 issue proposals for decision.
- 23  
24 (4) Hearing representative -- Any individual authorized by a party to assist the  
25 party in presenting the party's appeal. A hearing representative may be legal  
26 counsel or another individual. Each party may have a hearing representative to  
27 assist in presenting the party's appeal.
- 28  
29 (5) Level One Sanction Status -- A sanction status assigned by the Agency to a  
30 Board or other subrecipient of the Agency for significant inability or failure to  
31 perform as required by the Agency, including performing or failing to perform  
32 due to a sanctionable act as described in this subchapter. A Level One  
33 Sanction Status may be associated with the assessment of one or more  
34 penalties as referenced in this subchapter.
- 35  
36 (6) Level Two Sanction Status -- A higher sanction status than Level One assigned  
37 by the Agency to a Board or other subrecipient of the Agency for severe  
38 inability or failure to perform as required by the Agency, including performing  
39 or failing to perform due to a sanctionable act as described in this subchapter.  
40 A Level Two sanction may be associated with the assessment of more severe  
41 penalties than those assessed to a Board or subrecipient of the Agency in Level  
42 One Sanction Status.
- 43  
44 (7) Level Three Sanction Status -- The highest sanction status assigned by the  
45 Agency to a Board or other subrecipient of the Agency for extreme inability or  
46 failure to perform as required by the Agency, including performing or failing



1 to perform due to a sanctionable act as described in this subchapter. A Level  
2 Three Sanction may be associated with the assessment of the most severe  
3 penalties being assessed against the Board or subrecipient of the Agency.  
4

- 5 (8) Party -- The person or entity with the right to participate in a hearing  
6 authorized by applicable statute or rule.  
7

8 **§800.191. Appeal**

- 9 (a) A Board may appeal a Sanction Determination; however, a recommendation to  
10 another entity by the Agency or Commission under §800.174 and §800.175 of this  
11 chapter, may not be appealed under this section.  
12 (b) A request for appeal of a Sanction Determination shall be filed within 10 working  
13 days following the receipt of the Sanction Determination. The appeal shall be in  
14 writing and filed with the General Counsel, Texas Workforce Commission, 101 East  
15 15th Street, Room 614, Austin, Texas 78778.  
16 (c) The Agency shall refer the request for appeal to an impartial hearing officer for a  
17 hearing.  
18 (d) The Agency shall mail a notice of hearing to the Board as provided in §800.181(c)  
19 and to its representative, if any. The notice of hearing shall be in writing and  
20 include:  
21  
22 (1) a statement of the date, time, place, and nature of the hearing;  
23  
24 (2) a statement of the legal authority under which the hearing is to be held; and  
25  
26 (3) a short and plain statement of the issues to be considered during the hearing.  
27

28 **§800.192. Hearing Procedures**

- 29  
30 (a) The sanction determination hearing shall be conducted in person in Austin, Texas,  
31 unless the parties agree to a telephonic hearing or request a different location.  
32  
33 (b) The hearing shall be conducted informally and in such manner as to ascertain the  
34 substantial rights of the parties. All issues relevant to the appeal shall be considered  
35 and addressed, and may include:  
36  
37 (1) Presentation of Evidence. The parties to an appeal may present evidence that  
38 is material and relevant, as determined by the hearing officer. In conducting a  
39 hearing, the hearing officer shall actively develop the record on the relevant  
40 circumstances and facts to resolve all issues. To be considered as evidence in a  
41 decision, any document or physical evidence must be entered as an exhibit at  
42 the hearing.  
43  
44 (2) Examination of Parties and Witnesses. The hearing officer shall examine  
45 parties and any witnesses, and shall allow cross-examination to the extent the  
46 hearing officer deems necessary to afford the parties due process.

1  
2 (3) Additional Evidence. The hearing officer, with or without notice to any of the  
3 parties, may take additional evidence as deemed necessary, provided that a  
4 party shall be given an opportunity to rebut the evidence if it is to be used  
5 against the party's interest.  
6

7 (4) Appropriate Hearing Behavior. All parties shall conduct themselves in an  
8 appropriate manner. The hearing officer may expel any individual, including a  
9 party, who fails to correct behavior the hearing officer identifies as disruptive.  
10 After expulsion, the hearing officer may proceed with the hearing and render a  
11 decision.  
12

13 (c) Records.  
14

15 (1) The hearing record shall include the audio recording of the proceeding and any  
16 other relevant evidence relied on by the hearing officer, including documents  
17 and other physical evidence entered as exhibits.  
18

19 (2) The hearing record shall be maintained in accordance with federal and state  
20 law.  
21

22 (3) Confidentiality of information contained in the hearing record shall be  
23 maintained in accordance with federal and state law.  
24

25 **§800.193. Postponements, Continuances, and Withdrawals**  
26

27 (a) The hearing officer may grant a postponement of a sanction determination hearing  
28 for good cause at a party's request.  
29

30 (b) A continuance of a hearing may be ordered at the discretion of the hearing officer to  
31 consider additional, necessary evidence or for any other reason the hearing officer  
32 deems appropriate.  
33

34 (c) A Board may withdraw an appeal at any time prior to the issuance of the final  
35 decision.  
36

37 **§800.194. Evidence**  
38

39 (a) Evidence Generally. Evidence, including hearsay evidence, shall be admitted if it is  
40 relevant and if in the judgment of the hearing officer it is the kind of evidence on  
41 which reasonably prudent persons are accustomed to rely in the conduct of their  
42 affairs. However, the hearing officer may exclude evidence if its probative value is  
43 outweighed by the danger of unfair prejudice, by confusion of the issues, or by  
44 reasonable concern for undue delay, waste of time, or needless presentation of  
45 cumulative evidence.  
46

- 1 (b) Exchange of Exhibits. Any documentary evidence to be presented during a  
2 telephonic hearing shall be exchanged with all parties and a copy shall be provided  
3 to the hearing officer in advance of the hearing. Any documentary evidence to be  
4 presented at an in-person hearing shall be exchanged at the hearing.  
5
- 6 (c) Stipulations. The parties, with the consent of the hearing officer, may agree in  
7 writing to relevant facts. The hearing officer may decide the appeal based on such  
8 stipulations or, at the hearing officer's discretion, may set the appeal for hearing and  
9 take such further evidence as the hearing officer deems necessary.  
10
- 11 (d) Experts and Evaluations. If relevant and useful, testimony from an independent  
12 expert or a professional evaluation from a source satisfactory to the parties and the  
13 Agency may be ordered by hearing officers, on their own motion, or at a party's  
14 request. Any such expert or evaluation shall be at the expense of one or more of the  
15 parties.  
16
- 17 (e) Subpoenas.  
18
- 19 (1) The hearing officer may issue subpoenas to compel the attendance of witnesses  
20 and the production of records. A subpoena may be issued either at the request of  
21 a party or on the hearing officer's own motion.  
22
- 23 (2) A party requesting a subpoena shall state the nature of the information desired,  
24 including names of any witnesses and the records that the requestor feels are  
25 necessary for the proper presentation of the case.  
26
- 27 (3) The request shall be granted only to the extent the records or the testimony of  
28 the requested witnesses appears to be relevant to the issues on appeal.  
29
- 30 (4) A denial of a subpoena request shall be made in writing or on the record, stating  
31 the reasons for such denial.  
32

33 **§800.195. Hearing Officer Independence and Impartiality**  
34

- 35 (a) A hearing officer presiding over a hearing shall have all powers necessary and  
36 appropriate to conduct a full, fair, and impartial hearing. Hearing officers shall  
37 remain independent and impartial in all matters regarding the handling of any issues  
38 during the pendency of a case and in issuing their written proposals for decision.  
39
- 40 (b) A hearing officer shall be disqualified if the hearing officer has a personal interest in  
41 the outcome of the appeal or if the hearing officer directly or indirectly participated  
42 in the determination on appeal. Any party may present facts to the Agency in  
43 support of a request to disqualify a hearing officer.  
44
- 45 (c) The hearing officer may withdraw from a hearing to avoid the appearance of  
46 impropriety or partiality.

- 1  
2 (d) Following any disqualification or withdrawal of a hearing officer, the Agency shall  
3 assign an alternate hearing officer to the case. The alternate hearing officer shall not  
4 be bound by any findings or conclusions made by the disqualified or withdrawn  
5 hearing officer.  
6

7 **§800.196. Ex Parte Communications**  
8

- 9 (a) The hearing officer shall not participate in ex parte communications, directly or  
10 indirectly, in any matter in connection with any substantive issue, with any interested  
11 person or party. Likewise, no person shall attempt to engage in ex parte  
12 communications with the hearing officer on behalf of any interested person or party.  
13  
14 (b) If the hearing officer receives any such ex parte communication, the other parties  
15 shall be given an opportunity to review any such ex parte communication.  
16  
17 (c) Nothing shall prevent the hearing officer from communicating with parties or their  
18 representatives about routine matters such as requests for continuances or  
19 opportunities to inspect the file.  
20  
21 (d) The hearing officer may initiate communications with an impartial Agency employee  
22 who has not participated in a hearing or any determination in the case for the limited  
23 purpose of using the special skills or knowledge of the Agency and its staff in  
24 evaluating the evidence.  
25

26 **§800.197. Hearing Decision**  
27

- 28 (a) Following the conclusion of the hearing, the hearing officer shall promptly prepare a  
29 written proposal for decision.  
30  
31 (b) The proposal for decision shall be based exclusively on the evidence of record in the  
32 hearing and on matters officially noticed in the hearing. The decision shall include:  
33  
34 (1) a list of the individuals who appeared at the hearing;  
35  
36 (2) the findings of fact and conclusions of law reached on the issues; and  
37  
38 (3) the affirmation, reversal, or modification of the sanctions.  
39  
40 (c) The proposal for decision shall be submitted to the Agency's executive director for  
41 issuance of a written decision on behalf of the Agency.  
42  
43 (d) Unless a party files a timely motion for rehearing, the Agency may assume  
44 continuing jurisdiction to modify or correct a decision until the expiration of 30  
45 calendar days from the mailing date of the decision.  
46

1       **§800.198. Motion for Reopening**  
2

- 3           (a) If a party does not appear for a hearing, the party may request a reopening of the  
4           hearing within 30 calendar days from the date the decision is mailed.  
5  
6           (b) The motion for reopening shall be in writing and detail the reason for failing to  
7           appear at the hearing.  
8  
9           (c) The hearing officer may schedule a hearing on whether to grant the reopening.  
10  
11          (d) The motion may be granted if the hearing officer determines that the party has shown  
12          good cause for failing to appear at the hearing.  
13

14       **§800.199. Motion for Rehearing**  
15

- 16          (a) A Board may file a motion for rehearing for the presentation of new evidence within  
17          30 days from the date the decision is mailed. A rehearing shall be granted only for  
18          the presentation of new evidence.  
19  
20          (b) A motion for rehearing shall be in writing and allege the new evidence to be  
21          considered.  
22  
23          (c) If the hearing officer determines that the alleged new evidence warrants a rehearing,  
24          a rehearing shall be scheduled at a reasonable time and place.  
25  
26          (d) The hearing officer shall issue a written proposal for decision in response to a timely  
27          filed motion for rehearing. The proposal for decision shall be submitted to the  
28          Agency's executive director for issuance of a final decision.  
29

30       **§800.200. Finality of Decision**  
31

- 32          (a) The decision of the executive director is the final administrative decision of the  
33          Agency after the expiration of 30 calendar days from the mailing date of the  
34          decision, unless within that time:  
35  
36                  (1) a request for reopening is filed with the Agency;  
37  
38                  (2) a request for rehearing is filed with the Agency; or  
39  
40                  (3) the Agency assumes continuing jurisdiction to modify or correct the decision.  
41  
42          (b) Any decision issued in response to a request for reopening or rehearing or a  
43          modification or correction issued by the Agency shall be final on the expiration of 30  
44          calendar days from the mailing date of the decision, modification, or correction.  
45  
46