



Ohio Revised Code

Section 5101.241 Actions for noncompliance with workforce development activity standards or requirements.

Effective: October 1, 2005

Legislation: House Bill 66 - 126th General Assembly

(A) As used in this section:

(1) "Local area" and "chief elected official" have the same meaning as in section 5101.20 of the Revised Code.

(2) "Responsible entity" means the chief elected officials of a local area.

(B) The department of job and family services may take action under division (C) of this section against the responsible entity, regardless of who performs the workforce development activity, if the department determines any of the following are the case:

(1) A requirement of a grant agreement entered into under section 5101.20 of the Revised Code that includes the workforce development activity, including a requirement for grant agreements established by rules adopted under that section, is not complied with;

(2) A performance standard for the workforce development activity established by the federal government or the department is not met;

(3) A requirement for the workforce development activity established by the department or any of the following is not complied with: a federal or state law, state plan for receipt of federal financial participation, grant agreement between the department and a federal agency, or executive order;

(4) The responsible entity is solely or partially responsible, as determined by the director of job and family services, for an adverse audit finding, adverse quality control finding, final disallowance of federal financial participation, or other sanction or penalty regarding the workforce development activity.



(C) The department may take one or more of the following actions against the responsible entity when authorized by division (B)(1), (2), (3), or (4) of this section:

(1) Require the responsible entity to submit to and comply with a corrective action plan, established or approved by the department, pursuant to a time schedule specified by the department;

(2) Require the responsible entity to do one of the following:

(a) Share with the department a final disallowance of federal financial participation or other sanction or penalty;

(b) Reimburse the department the amount the department pays to the federal government or another entity that represents the amount the responsible entity is responsible for of an adverse audit finding, adverse quality control finding, final disallowance of federal financial participation, or other sanction or penalty issued by the federal government, auditor of state, or other entity;

(c) Pay the federal government or another entity the amount that represents the amount the responsible entity is responsible for of an adverse audit finding, adverse quality control finding, final disallowance of federal financial participation, or other sanction or penalty issued by the federal government, auditor of state, or other entity;

(d) Pay the department the amount that represents the amount the responsible entity is responsible for of an adverse audit finding, adverse quality control finding, or other sanction or penalty issued by the department.

(3) Impose a financial or administrative sanction or adverse audit finding issued by the department against the responsible entity, which may be increased with each subsequent action taken against the responsible entity;

(4) Perform or contract with a government or private entity for the entity to perform the workforce development activity until the department is satisfied that the responsible entity ensures that the activity will be performed to the department's satisfaction. If the department performs or contracts with an entity to perform the workforce development activity under division (C)(4) of this section,



the department may withhold funds allocated to or reimbursements due to the responsible entity for the activity and use those funds to implement division (C)(4) of this section.

(5) Request the attorney general to bring mandamus proceedings to compel the responsible entity to take or cease the actions listed in division (B) of this section. The attorney general shall bring any mandamus proceedings in the Franklin county court of appeals at the department's request.

(6) If the department takes action under this division because of division (B)(3) of this section, withhold funds allocated or reimbursement due to the responsible entity until the department determines that the responsible entity is in compliance with the requirement. The department shall release the funds when the department determines that compliance has been achieved.

(7) Issue a notice of intent to revoke approval of all or part of the local plan effected that conflicts with state or federal law and effectuate the revocation.

(D) The department shall notify the responsible entity and the appropriate county auditor when the department proposes to take action under division (C) of this section. The notice shall be in writing and specify the action the department proposes to take. The department shall send the notice by regular United States mail. Except as provided in division (E) of this section, the responsible entity may request an administrative review of a proposed action in accordance with administrative review procedures the department shall establish. The administrative review procedures shall comply with all of the following:

(1) A request for an administrative review shall state specifically all of the following:

(a) The proposed action specified in the notice from the department for which the review is requested;

(b) The reason why the responsible entity believes the proposed action is inappropriate;

(c) All facts and legal arguments that the responsible entity wants the department to consider;

(d) The name of the person who will serve as the responsible entity's representative in the review.



(2) If the department's notice specifies more than one proposed action and the responsible entity does not specify all of the proposed actions in its request pursuant to division (D)(1)(a) of this section, the proposed actions not specified in the request shall not be subject to administrative review and the parts of the notice regarding those proposed actions shall be final and binding on the responsible entity.

(3) The responsible entity shall have fifteen calendar days after the department mails the notice to the responsible entity to send a written request to the department for an administrative review. The responsible entity and the department shall attempt to resolve informally any dispute and may develop a written resolution to the dispute at any time prior to submitting the written report described in division (D)(7) of this section to the director.

(4) In the case of a proposed action under division (C)(2) of this section, the responsible entity may not include in its request disputes over a finding, final disallowance of federal financial participation, or other sanction or penalty issued by the federal government, auditor of state, or other entity other than the department.

(5) If the responsible entity fails to request an administrative review within the required time, the responsible entity loses the right to request an administrative review of the proposed actions specified in the notice and the notice becomes final and binding on the responsible entity.

(6) The director of job and family services shall appoint an administrative review panel to conduct the administrative review. The review panel shall consist of department employees who are not involved in the department's proposal to take action against the responsible entity. The review panel shall review the responsible entity's request. The review panel may require that the department or responsible entity submit additional information and schedule and conduct an informal hearing to obtain testimony or additional evidence. A review of a proposal to take action under division (C)(2) of this section shall be limited solely to the issue of the amount the responsible entity shall share with the department, reimburse the department, or pay to the federal government, department, or other entity under division (C)(2) of this section. The review panel is not required to make a stenographic record of its hearing or other proceedings.



(7) After finishing an administrative review, an administrative review panel appointed under division (D)(6) of this section shall submit a written report to the director setting forth its findings of fact, conclusions of law, and recommendations for action. The director may approve, modify, or disapprove the recommendations.

(8) The director's approval, modification, or disapproval under division (D)(7) of this section shall be final and binding on the responsible entity and shall not be subject to further review.

(E) The responsible entity is not entitled to an administrative review under division (D) of this section for any of the following:

(1) An action taken under division (C)(5) or (6) of this section;

(2) An action taken under section 5101.242 of the Revised Code;

(3) An action taken under division (C)(2) of this section if the federal government, auditor of state, or entity other than the department has identified the responsible entity as being solely or partially responsible for an adverse audit finding, adverse quality control finding, final disallowance of federal financial participation, or other sanction or penalty;

(4) An adjustment to an allocation, cash draw, advance, or reimbursement to the responsible entity's local area that the department determines necessary for budgetary reasons;

(5) Withholding of a cash draw or reimbursement due to noncompliance with a reporting requirement established in rules adopted under section 5101.243 of the Revised Code.

(F) This section does not apply to other actions the department takes against the responsible entity pursuant to authority granted by another state law unless the other state law requires the department to take the action in accordance with this section.

(G) The director of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code as necessary to implement this section.



(H) The governor may decertify a local workforce development board for any of the following reasons in accordance with subsection (e) of section 117 of the "Workforce Investment Act of 1998" 112 Stat. 936, 29 U.S.C. 2801, as amended:

(1) Fraud or abuse;

(2) Failure to carry out the requirements of the federal "Workforce Investment Act," 112 Stat. 936, 29 U.S.C. 2801, as amended, including failure to meet performance standards established by the federal government for two consecutive years.

If the governor finds that access to basic "Workforce Investment Act" services is not being provided in a local area, the governor may declare an emergency and, in consultation with the chief elected officials of the local area affected, arrange for provision of these services through an alternative entity during the time period in which resolution of the problem preventing service delivery in the local area is pending. An action taken by the governor pursuant to this section is not subject to appeal under this section.