

**ATTACHMENT IV**  
**Text of Adopted Amendments to 19 TAC**

**Subchapter CC. Hearings of Appeals Arising Under Federal Law and Regulations**

**§157.1081. Applicant's Opportunity for a Hearing Prior to Denial of an Application .**

- (a) Before the Texas Education Agency (TEA) disapproves an application filed under any of the following programs, the commissioner of education shall provide the applicant with notice and an opportunity for a hearing:
- (1) Chapter 1  program in local educational agencies, as authorized under the Elementary and Secondary Education Act of 1965, Title I, Chapter 1, as amended [ ] (20 United States Code (USC) [~~USC~~], §§2701-2731, 2821-2838, 2851-2854, and 2891-2901; and 34 Code of Federal Regulations (CFR) [~~CFR~~], Part 200);
  - (2) Chapter 1  program for neglected or delinquent children, as authorized under the Elementary and Secondary Education Act of 1965, Title I, Chapter 1, as amended [ ] (20 USC, §§2801-2804; and 34 CFR, Part 203);
  - (3) state grants for strengthening instruction in mathematics and science, as authorized under the Elementary and Secondary Education Act of 1965, Title II, Part A, as amended [ ] (20 USC, §§2981-2993; and 34 CFR, Part 208);
  - (4) federal, state, and local partnership for educational improvement, as authorized under the Elementary and Secondary Education Act of 1965, Title I, Chapter 2, as amended [ ] (20 USC, §§2911-2952 and 2971-2976 ; and 34 CFR, Part 298);
  - (5) assistance to states for education of [~~handicapped~~] children with disabilities , as authorized under the Individuals with Disabilities Education Act, Part B (except Section 619) [ ] (20 USC, §§1411-1420; and 34 CFR, Part 300);
  - (6) preschool grants, as authorized under the Individuals with Disabilities Education Act, §619 [ ] (20 USC, §1419; and 34 CFR, Part 301);
  - (7) Chapter 1, state operated or supported programs for [~~handicapped~~] children with disabilities , as authorized under the Elementary and Secondary Education Act of 1965, Title I, Chapter 1, as amended [ ] (20 USC, §§2791-2795; and 34 CFR, Part 302);
  - (8) transition program for refugee children, as authorized under the Immigration and Naturalization Act, §412(d) [ ] (8 USC, §1522(d) [~~§§3121-3130~~]; and 34 CFR, Part 538 [~~581~~]);
  - (9) emergency immigrant education program, as authorized under the Emergency Immigrant Education Act (20 USC, §§3121-3130 ; and 34 CFR, Part 581 ); or
  - (10) financial assistance for construction, reconstruction, or renovation of higher education facilities, as authorized under the Higher Education Act of 1965, §711 [ ] (20 USC, §1132b ; and 34 CFR, Part 617 ).
- (b) (No change.)
- (c) An applicant for a subgrant may request a hearing under §157.1083 of this title (relating to Procedures for Hearing for Denial of an Application or an Enforcement Action ) if the applicant alleges that any of the following TEA actions violates a state or federal statute or regulation:
- (1)-(2) (No change.)

**§157.1082. Grantee's or Subgrantee's Opportunity for a Hearing in an Enforcement Action .**

- (a) The Texas Education Agency (TEA) may take one or more of the following actions specified in 34 Code of Federal Regulations [~~CFR~~], §80.43(a), as appropriate in the circumstances, if a grantee or subgrantee

materially fails to comply with any term of an award, whether stated in a federal statute or regulation as an assurance, in a state plan or application, in a notice of award, or elsewhere : [ ]

- (1) temporarily withhold cash payments pending correction of the deficiency by the grantee or subgrantee or more severe enforcement action by the awarding agency;
- (2) disallow (that is, deny both use of funds and matching credit for) all or part of the cost of the activity or action not in compliance;
- (3) wholly or partly suspend or terminate the current award for the grantee's or subgrantee's program;
- (4) withhold further awards for the program; or
- (5) take other remedies that may be legally available.

(b) (No change.)

~~[(c) A subgrantee may request a hearing under §157.1083 of this title (relating to Procedures for Hearing) if the subgrantee alleges that any of the following TEA actions violates a state or federal statute or regulation:]~~

- ~~[(1) ordering, in accordance with a final state audit resolution determination, the repayment of misspent or misapplied federal funds; or]~~
- ~~[(2) terminating further assistance for an approved project.]~~

#### **§157.1083. Procedures for Hearing for Denial of an Application or an Enforcement Action .**

(a) Requirements for request for hearing.

- (1) (No change.)
- (2) The request for hearing shall follow the filing requirements set forth in TEA's notice of action.
- ~~[(2) The request for hearing shall be mailed by certified mail, return receipt requested, transmitted by facsimile, or hand delivered to: Director of Hearings, Texas Education Agency, 1701 N. Congress Avenue, Suite 2-150, Austin, Texas 78701-1494. The request for hearing shall be deemed filed at the time it is actually received by the director of hearings or the designated docket clerk in the TEA Division of Hearings.]~~
- (3) (No change.)

(b) (No change.)

#### **§157.1084. Appeal from the Decision of the Commissioner of Education.**

If the commissioner of education or the commissioner's designee does not rescind the final action after the review under §157.1083(b) of this title (relating to Procedures for Hearing for Denial of an Application or an Enforcement Action ), the applicant may appeal to the secretary of education under 34 CFR, §76.401(d)(5) and (6).