

Sections 839.11-839.12, 839.31-839.34 and 839.38-839.47
Welfare to Work Grievance Procedures

The Texas Workforce Commission (Commission) adopts new §§839.11, 839.12, 839.31-839.34, and 839.38-839.47, relating to grievance procedures for the Welfare to Work program.

The Commission withdraws and re-proposes §§839.35-839.37 for an additional 30-day comment period.

Sections 839.32-839.34, 839.38-839.40, and §§839.42-839.46 are adopted with changes to the proposed text as published in the February 12, 1999, issue of the *Texas Register* (24 TexReg 932). Sections 839.11, 839.12, 839.31, 839.41, and 839.47 are adopted without changes and will not be republished.

The Balanced Budget Act of 1997 authorized the U.S. Department of Labor (DOL) to provide Welfare-to-Work (Welfare to Work) Formula Grants to states and local communities to create additional job opportunities for hard-to-employ recipients of Temporary Assistance for Needy Families (TANF). These grants will provide many welfare recipients with job placement services, transitional employment, and other support services that they need to make the successful progression into long-term unsubsidized employment. The State Welfare to Work plan is an addendum to the State's TANF plan.

Under the Welfare to Work Formula Grant Program, Texas will allocate 85 percent of its funding from DOL to the Boards. If a Local Workforce Development Area does not have a certified Board, the funds for that area will be allocated to the Private Industry Council (PIC) for that area. Boards have the jurisdiction and the authority to develop local policy, to determine which segments of the eligible population to target, to determine service delivery practices and procedures, to set the services and activities available in each local workforce development area, to demonstrate collaboration with other local partners, and to provide in-kind matching funds for the program. These activities and services are to be delivered consistent with federal and state laws, regulations, rules, and policies.

Under the Welfare to Work law, states are required to establish and maintain a grievance procedure for resolving complaints from program participants with regard to nondiscrimination, health and safety, gender discrimination and worker displacement, and from regular employees alleging displacement, as required by the Welfare to Work statute and regulations. The guidelines include an opportunity for informal resolution. If informal resolution cannot be reached, the rules provide the procedure for a dissatisfied party to receive a hearing. These procedures comply with

the federal timeline that no later than 120 days after receipt of an individual's original grievance, a final written determination of any appeal must be finalized.

The Commission held a public hearing on April 8, 1999, in room 244 of the the Commission Building on 101 East 15th Street, Austin, TX. The following appeared to provide their comments on the proposed rules: Texas AFL-CIO and the Texas Appleseed Advocacy Fund.

Written comments expressing concern and suggestions regarding some sections of the rules were received from the North Central Texas Local Workforce Development Board, Coastal Bend Workforce Centers, and the State Office of Administrative Hearings. Following each comment is the Commission's response.

Comments regarding §839.12, Gender Discrimination, and §839.31, Purpose and Coverage, are as follows:

Comment: A commenter requests a clarification of the reason gender discrimination, which is a protected category under federal legislation, is included in the Welfare to Work Grievance procedures.

Response: The Welfare to Work federal law and regulations require the State to establish a grievance procedure for grievances regarding displacement, violations of health and safety standards, and gender discrimination.

Comments regarding §839.33, Definitions, are as follows:

Comment: A commenter expresses confusion regarding the definition of SOAH. The definition states that SOAH can review the "local level hearing decision." The Commission issues a hearing decision, the decision is not made at the local level. This appears again in §839.45.

Response: The Commission concurs and has clarified the language.

Comment: A commenter requests that the Commission define "health and safety standards."

Response: The federal regulations state that the Welfare to Work participants are subject to the same health and safety standards established under state and federal law which are applicable to similarly employed employees of the same employer, who are not participants in programs under Welfare to Work. The Commission believes that the federal regulations define "health and safety standards" sufficiently enough to provide notice to those involved in the Welfare to Work program.

Comment: A commenter requests that displacement, as it pertains to program participants and regular employees, be defined.

Response: Displacement is defined in the federal Welfare to Work regulations at 20 C.F.R. §645.265. The Commission does not believe that it is necessary to repeat federal law in state rules.

Comment: Two commenters request that the definition of "complainant" be expanded to allow an organization, a church, a union, or a community organization to intervene on behalf of an employee. One commenter suggested incorporating a concept of "authorized representative" into the rules.

Response: The federal Welfare to Work regulations specifically state that the grievance procedure is for resolving complaints from regular employees and program participants. The state Welfare to Work rules are consistent with federal regulations. The Commission disagrees with expanding the definition beyond the federal regulations.

Comments regarding §839.34, Grievance Filing Procedure at the Local Level, are as follows:

Comment: One commenter asserts that the requirement that the complainant provide a copy of the grievance to Commission as well as to the local contractor appears burdensome and should be the responsibility of the EO officer.

Response: The Commission concurs that this is burdensome to the complainant and will change the language to require the local Equal Opportunity (EO) Officer to forward any complaints to Commission.

Comment: A commenter asserts that the requirement for additional information, such as whether or not an informal hearing was held, appears burdensome.

Response: The information required on the form is necessary information for the Commission to obtain in order to conduct the public hearing. The Commission has developed a "Welfare to Work Request for Hearing Form" to assist in filing complaints. The Commission believes that this will alleviate any undue burden.

Comment: A commenter asserts that the process for filing a grievance is applicable to filing a request for a hearing from the Commission, not to filing a complaint at the local level.

Response: The local contractors will be responsible for coordinating and overseeing all grievance complaints. The Commission will only serve as the entity to conduct the hearing. Therefore, all grievances will still be filed at the local level.

Comments regarding §839.36, Welfare to Work Provider Responsibilities, are as follows:

Comment: A commenter requests that "Welfare to Work subrecipient" be defined. The commenter asks if this is the employer of an individual participating in the Welfare to Work program or the individual.

Response: The term "subrecipient" refers to an employer who has accepted a Welfare to Work participant. The Commission will add a definition of "subrecipient" to §839.33 to clarify this.

Comment: A commenter states that if the definition of "Contractor" is "a service provider for the Board," this appears to imply that Local Workforce Development Areas (LWDAs) with more than one service provider will have more than one EO Officer and more than one complaint system. The commenter suggests that a more consistent approach would be to designate one EO Officer per LWDA.

Response: The term "contractor" does refer to a Board's service provider. All contractors will follow these rules in resolving complaints; therefore, there will be consistency in this process across the State. Due to changes to this rule, the Commission has withdrawn and re-proposed §839.36 of this title (relating to Welfare to Work Provider Responsibilities) for an additional 30-day comment period.

Comments regarding §839.37, Orientation to Complaint Procedure, are as follows:

Comment: A commenter suggests that the term "enroll" be replaced with the phrase "at the time of application" since all applicants may not enroll in the Welfare to Work program.

Response: Consistent with the Workforce Investment Act state rules, the Commission has eliminated this provision from the state Welfare to Work rules as an orientation to complaint procedure is not required by the federal Welfare to Work rules. Due to this change, the Commission has withdrawn and re-proposed §839.37 as reserved for expansion for an additional 30-day comment period.

Comment: A commenter suggests that the Spanish version of the Orientation to Complaint Form be available from the Commission.

Response: The Commission has deleted §839.37 of this title (related to Orientation to Complaint Procedure) in favor of internal Board record keeping, as referenced in the re-proposed §839.36 of this title (relating to Welfare to Work Provider Responsibilities). Due to this change, §839.37 is withdrawn, reserved for expansion, and re-proposed for an additional 30-day comment period.

Comments regarding §839.38, Local Level Informal Conference Procedure, are as follows:

Comment: A commenter suggests that the timeframes outlined in the Job Training Partnership Act (JTPA) Grievance Procedures be utilized for this program. This timeframe would be used for scheduling an informal conference after receipt of the properly completed grievance form and completion of the written determination.

Response: The federal regulations on the grievance procedure for Welfare to Work are not the same as the JTPA federal regulations. The Welfare to Work federal regulations require that the total grievance procedure take no longer than 120 days after the receipt of a written complaint. Pursuant to federal law, the Commission cannot apply the JTPA timeframes to the Welfare to Work program. An LWDB, at its own discretion, may schedule an informal conference after receipt of the Welfare to Work Request for Hearing Form. Caution must be taken to ensure that the 120-day limit is met.

Comment: A commenter suggests that, because the hearing is conducted by a Commission hearing officer and does not occur at the local level, the word "hearing" be replaced with "informal conference."

Response: The term "hearing" refers to the hearing held by the Commission. The term is necessary to distinguish between the informal conference held at the local level and the hearing held by the Commission. Therefore, the Commission declines to make this change.

Comment: A commenter requests further clarification concerning when the local EO Officer would bypass the informal conference and if that would occur at the request of the complainant or at the discretion of the local EO Officer.

Response: The Commission has left it to the discretion of the LWDBs/PICs to determine if an informal conference should be scheduled. The 120-day limit begins upon receipt of a written grievance. Due to this, the informal conference must be held within 20 days of receipt of the Commission/Welfare to Work Request for Hearing Form. Section 839.38(a) will be amended to reflect this timeframe.

Comment: A commenter requests that language be added to require the Commission to schedule a formal hearing rather than the local EO Officer since the hearing is conducted by the Commission.

Response: The Commission concurs and has amended the rules. If there is no informal conference, or if the complainant requests a hearing upon receiving the decision on the informal conference, the EO Officer must inform the Appeals department of the Commission of the need for a hearing.

Comments regarding §839.39, Opportunity and Request for a Hearing, are as follows:

Comment: A commenter requests further clarification regarding whether the local EO Officer may assist the complainant in completing the complaint form if there is no informal conference and a hearing is desired.

Response: The EO Officer may assist complainants with the Welfare to Work grievance procedure, if it is local policy to do so. However, it is not required by these rules. The Commission amends §§839.35(a) and 839.36 to reflect this change. Due to these changes, the Commission has withdrawn and re-proposed §839.35 of this title (related to Time Limitations at Local Level) and §839.36 of this title (relating to Welfare to Work Provider Responsibilities), for an additional 30-day comment period.

Comments regarding §839.40, Notice of Hearing, are as follows:

Comment: A commenter requests that language be changed to require the Commission to send a notice of the setting of the hearing, since the Commission conducts the hearing, rather than the local EO Officer.

Response: The Commission concurs and will revise the rule to reflect this change.

Comment: A commenter requests clarification regarding the date the complaint is received. The commenter asks if the date refers to the date the local EO Officer receives the written request or the date that the Commission receives the written request.

Response: The date the complaint is received refers to the date the contractor receives the complaint, not the date that the Commission receives the complaint. Language will be added to clarify this in §§839.39 and 839.40.

Comment: A commenter requests that the written notice of withdrawal of a complaint be filed with the Commission, rather than with the EO Officer.

Response: The Commission agrees that the notice of withdrawal must be sent to the Commission hearing officer if applicable. However, the notice shall also be sent to the local EO officer. The rule has been amended accordingly.

Comments regarding §839.42, Hearing Procedure, are as follows:

Comment: A commenter believes it is the responsibility of the Commission to arrange for a transcript of the hearing by a certified court reporter, or to make arrangements for the making of an audible, understandable electronic recording of the hearing, not the local EO Officer, since it is the responsibility of the Commission to conduct the hearing.

Response: The Commission concurs that it would be easier for the Commission to make arrangements for a transcript or an electronic recording of any hearing. Language will be added to clarify that this will be the responsibility of the Commission.

Comments regarding §839.43, Written Decision, are as follows:

Comment: A commenter believes it is the responsibility of the Commission to provide a copy of the written decision to all parties of the complaint; that it appears to add an unnecessary and inefficient step to the process when this responsibility is transferred to the local EO Officer.

Response: The Commission concurs and will revise the rule to reflect this change.

Comments regarding §839.44, Request for Review of a Written Decision, are as follows:

Comment: A commenter believes that the Commission should include in its written decision a notice that SOAH may review the decision.

Response: The Commission concurs and will revise the rule to reflect this change.

Comment: A commenter requests that the language be amended to require that a party file a request for review with the Commission. The Commission would then initiate a case at SOAH by filing a request to docket the matter. The commenter asserts that this would be consistent with their procedure that a case be commenced at the agency with appropriate subject matter jurisdiction. The commenter further asserts that this would prevent requests for review that are not timely filed or that are incomplete from being referred to SOAH, would allow the Commission to provide SOAH with the correct

names and mailing addresses of all parties to the dispute, and would simplify the process for the appealing party.

Response: The Commission concurs and will revise the rule to reflect this change.

Comments regarding §839.45, Procedure for Review by SOAH, are as follows:

Comment: Two commenters suggest that the Commission should provide the complete file information to SOAH. One commenter suggests that this would ensure that the file forwarded to SOAH would be true and correct, without inadvertent deletions or additions. The commenter believes that this would also lessen the opportunity for a hearing record to be lost.

Response: The Commission concurs and will revise the rule to reflect this change. However, the Commission believes that, upon completion of SOAH's review, the official file should be retained at the local level.

Comments regarding §839.46, Final Written Decision, are as follows:

Comment: A commenter requests clarification regarding what is meant by "a properly completed request for review" in this section. Does this refer to a request for review by the State Office of Administrative Hearings (SOAH), or to the initial request for review received by the Commission hearing officer?

Response: This sentence refers to a request submitted to SOAH. Language will be inserted to clarify this.

Comment: A commenter requests clarification regarding how this section relates to a complaint regarding gender discrimination, a protected category under federal legislation.

Response: The Welfare to Work federal law and regulations require the State to establish a grievance procedure for grievances regarding displacement, violations of health and safety standards, and gender discrimination. The federal requirements for an appeal of the hearing decision also apply to gender discrimination.

Comments regarding §839.47, Remedies, are as follows:

Comment: Two commenters request that the remedies be expanded to allow for reinstatement of a displaced employee and other equitable relief. The commenters asserted that the federal law allows for these two remedies.

Response: The federal law requires that the grievance rules contain remedies. The federal law and regulations list four remedies which the state may incorporate, at the state's discretion. As the state does not have the authority to require a private employer to rehire an individual, the state chose two of the available options. As the state continues to believe that we do not have the authority to require a private employer to rehire an individual, the Commission declines to amend the rule.

Miscellaneous Comments are as follows:

Comment: A commenter requests that the Welfare to Work grievance rules require the entity (subrecipient) who is getting subsidized work to notify any collective bargaining representative in their workplace.

Response: The federal regulations (20 C.F.R. §645.265) state when a labor organization is to be notified of an employment activity operated with Welfare to Work funds. The Commission declines to create requirements beyond those included in federal law. Therefore, the Commission declines to amend the rules to incorporate this suggestion.

The Commission has amended §839.32 by deleting the reference to "Welfare to Work Complaint Form" and by amending the reference to §839.37(b). The new reference is to §839.34(b).

The Commission has amended §§839.34, 839.38, and 839.40 by changing "Welfare to Work Grievance Information Form" to read "Commission/Welfare to Work Request for Hearing Form."

The Commission has amended §839.40 regarding the timeframes for the hearing.

The Commission has added a subsection to §839.42 to assist the Hearing Officer.

SUBCHAPTER B. NONDISCRIMINATION AND EQUAL OPPORTUNITY

The sections are adopted under Texas Labor Code §301.061 which provides the Texas Workforce Commission with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of Texas Workforce Commission programs.

§839.11. Applicability.

In accordance with 20 CFR §645.255, this subchapter establishes the state JTPA rules regarding Nondiscrimination and Equal Opportunity, located in §805.260 of this Title

(relating to Job Training Partnership Act Rules) *et seq.* as the applicable procedure for resolving Nondiscrimination and Equal Opportunity complaints in the Welfare to Work Act, except as otherwise provided in this subchapter.

§839.12. Gender Discrimination Excluded.

For complaints alleging gender discrimination, the procedures in Subchapter C of this chapter (relating to Welfare to Work Grievance Procedures) will apply.

SUBCHAPTER C. WELFARE TO WORK GRIEVANCE PROCEDURES

The sections are adopted under Texas Labor Code §301.061 which provides the Texas Workforce Commission with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of Texas Workforce Commission programs.

§839.31. Purpose and Coverage.

(a) In addition to the grievance procedures set forth in 42 U.S.C.A. §603, and in accordance with the grievance procedures in 20 CFR §645.255, this subchapter establishes state procedures for resolving allegations of violations of the Welfare to Work Act and implementing federal regulations. These procedures apply to complaints by:

- (1) program participants alleging gender discrimination;
- (2) program participants alleging violations of health and safety standards;
- (3) program participants alleging displacement; and
- (4) regular employees alleging displacement.

(b) Nothing in these rules shall prevent the parties from addressing and resolving problems before a formal complaint has been filed.

§839.32. Optional Forms Available.

To facilitate the filing, processing, or withdrawal of a complaint under this chapter, the Commission has developed the "Withdrawal of Complaint," and the "Commission/Welfare to Work Request for Hearing Form" which may be reproduced and are available from the address listed in §839.34(b) of this title (relating to Grievance Filing Procedures at the Local Level).

§839.33. Definitions.

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

- (1) Act-The Welfare to Work Act.
- (2) Board - The local workforce development board as defined by the Texas Government Code §2308.253 or, in areas, where Boards are not yet operational, the Private Industry Council as defined by 20 CFR §645.120.
- (3) Commission - The Texas Workforce Commission.
- (4) Complainant-A program participant or a regular employee alleging a violation of the federal Welfare to Work Act as described in §839.31 of this title (relating to Purpose and Coverage).
- (5) Contractor - a service provider for the board.
- (6) Equal Opportunity (EO) Officer-The person designated by a Welfare to Work contractor who shall represent the Welfare to Work contractor and facilitate the complaint process.
- (7) Hearing Officer-A hearing officer is a Texas Workforce Commission employee designated to conduct fair hearings.
- (8) Respondent-The person, organization or agency against whom a complaint has been filed for an alleged violation of the Act.
- (9) Regular Employee - An individual who is not a program participant and is employed by a company that is participating in the Welfare to Work program.
- (10) SOAH-The state agency designated to conduct a review, as described in §839.45 of this title (relating to Procedure for Review by SOAH), of the written decision issued under §839.43 of this title (relating to Written Decision). May also be referred to as the State Office of Administrative Hearings.
- (11) Subrecipient - the employer who has a Welfare to Work participant working in his company.

§839.34. Grievance Filing Procedures at the Local Level.

(a) A complainant alleging a violation of the Act at the local level may file a complaint by submitting a written grievance to the Welfare to Work contractor. The grievance must be signed and dated by the complainant and shall include the following information:

- (1) the full name, complete address, and residence and work telephone numbers for the person filing the complaint;
- (2) a detailed description of the action, or failure to act, which is the subject of the complaint and a reference to, or description of, the provision of the Welfare to Work Act, regulations, rules, grant, or other agreement the complainant alleges was violated;
- (3) whether or not an informal conference was held in an attempt to resolve the

complaint, and a copy of any written determination issued by the local EO Officer;

- (4) if an informal conference was held, a description of all issues remaining unresolved;
- (5) a description of the remedies or corrective actions sought by the complainant; and
- (6) the name and address of each party or parties believed to be responsible for the action which is the subject of the complaint. The complainant shall explain how each party is responsible for the action which is the subject of the complaint.

(b) To facilitate the filing of a grievance or complaint, the complainant may request a Commission/Welfare to Work Request for Hearing Form from the Welfare to Work contractor or send a written request to the Texas Workforce Commission, Equal Opportunity Officer, 101 E.15th Street, Austin, TX 78778-0001.

(c) All information about, and complaints involving, allegations of fraud, abuse, or other criminal activity shall be reported directly to the Texas Workforce Commission, Office of Investigations, 101 E.15th Street, Austin, TX 78778-0001.

§839.38. Local Level Informal Conference Procedure.

(a) The EO Officer may schedule an informal conference following receipt of a properly completed Commission/Welfare to Work Request for Hearing Form to provide the parties an opportunity to informally resolve the complaint. The EO Officer shall notify all parties of the time, date, and location for the informal conference. The informal conference must be held within 20 calendar days of receipt of the Commission/Welfare to Work Request for Hearing Form.

(b) If the EO Officer schedules an informal conference, the EO Officer shall serve as facilitator of the informal conference, which may be attended by the complainant, the respondent and any other persons with information or knowledge relevant to the complaint considered necessary by the complainant, respondent, or EO Officer for a fair determination of the issues. Only those issues presented at the informal conference may be addressed in subsequent hearings. The EO Officer shall provide each party with a written determination including a statement of whether or not a resolution was reached, the details of any resolution and, if the complaint was unresolved, notice to the complainant of the opportunity for a hearing, including any applicable time limits. The written determination must be sent certified mail, return receipt requested to all parties.

(c) If the EO Officer does not schedule an informal conference, the EO Officer shall inform the Appeals department of the Commission, in writing, that a hearing needs to be scheduled, in accordance with §839.40 of this title (relating to Notice of Hearing),

following receipt of a properly completed Commission/Welfare to Work Request for Hearing Form.

§839.39. Opportunity and Request for a Hearing.

(a) If there was an informal conference and a hearing is desired, the complainant must file a written request for a hearing, with the Welfare to Work contractor, under this section within three calendar days after receipt of the EO Officer's written determination on the informal conference. In computing this time period, the day of the act or event after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday, or legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or legal holiday. A hearing held pursuant to the complainant's request will involve only those issues that were unresolved at the informal conference.

(b) The Appeals department of the Commission shall hold the hearing, as provided in 40 TAC Chapter 823.

(c) The parties may be represented at the hearing by an attorney or other representative and may present witnesses and documentary evidence.

(d) All documents required, as determined by the Hearing Officer, shall be at the hearing at the time of the hearing.

(e) The complainant shall bear the burden of proving that the actions complained of involve a violation that falls within the purpose and coverage of this subchapter.

§839.40. Notice of Hearing.

Within three business days after the Welfare to Work contractor receives a complainant's properly completed Commission/Welfare to Work Request for Hearing Form, or within three business days after the Welfare to Work contractor receives a complainant's written request for a hearing after an informal conference, whichever occurs last, the EO Officer shall send the request for hearing to the Appeals department of the Commission. The Hearing Officer shall send to the complainant and all other interested parties notice of the setting for a hearing within 5 business days of receipt of the request for hearing. Such notice shall include a synopsis of the issues to be considered at the hearing, and the following information:

- (1) the time, date, and location of the hearing, which must be a date no later than 20 calendar days following receipt by the Appeals department of the Commission of a properly completed Commission/Welfare to Work Request for Hearing Form; and
- (2) a provision that the complainant may withdraw the request for a hearing by submitting a written notice of withdrawal of the complaint to the Welfare to Work contractor, and to the Commission Hearing Officer if applicable, at any time prior to the hearing date.

§839.41. Hearing Officer.

- (a) The Welfare to Work contractor shall refer the complaint to the Texas Workforce Commission, Appeals Department, 101 East 15th Street, Austin, Texas 78778-0001.
- (b) The Hearing Officer shall conduct the hearing according to the procedures set forth in this subchapter and shall consider all evidence relevant to the complaint in order to reach a fair decision based on such evidence. At any time during testimony, the Hearing Officer may ask questions to elicit additional facts and to clarify the issues or statements of a party or witness. The Hearing Officer may interrupt testimony to discourage irrelevant lines of testimony or inquiry, to avoid cumulative evidence, and to maintain or restore efficient order to the proceeding.

§839.42. Hearing Procedure.

- (a) The Hearing Officer shall conduct the hearing, which may be attended by the complainant, the respondent, the EO Officer and any other persons with information or knowledge relevant to the complaint and considered necessary by a party for a fair determination of the issues.
- (b) If no party has arranged for a transcript of the hearing by a certified court reporter, the Hearing Officer shall make adequate arrangements for making an audible, understandable electronic recording of the hearing.
- (c) The Hearing Officer shall state the issues to be considered at the hearing.
- (d) The Hearing Officer may accept testimony from any other person who may have information or knowledge relevant to the complaint, and may receive oral and written evidence from any party or witness. The Hearing Officer may limit the introduction of cumulative or repetitive evidence.
- (e) The Hearing Officer may, after an appropriate warning, expel from any proceeding any person, whether or not a party, who fails to comport himself in a manner befitting

the proceeding. The Hearing Officer may then continue with the proceeding, hear evidence, and render a decision on the hearing.

§839.43. Written Decision.

The Hearing Officer shall provide to all the parties and to the EO Officer a written decision within five calendar days following the hearing. Such written decision shall contain, at minimum, the following information:

- (1) the time, date, and location of the hearing;
- (2) the names of all persons present at the hearing and the capacities in which they appeared;
- (3) a synopsis of the issues and the facts found to exist by the Hearing Officer;
- (4) a statement of the decision and the basis for such decision; and
- (5) a statement of any remedies to be applied.

§839.44. Request for Review of a Written Decision.

(a) The Hearing Officer shall issue, together with the written decision, a notice informing any adversely affected party of their opportunity to request that SOAH review the decision. The notice must inform the party that to obtain such review, a written request for review must be filed with the Commission, with a copy sent to the Welfare to Work contractor.

(b) The written request for review of the decision must be filed with the Commission's Office of General Counsel within thirty calendar days from the date upon which the party received the written decision, or the written decision will be final.

(c) The request for review must contain a statement signed by the party requesting a review of the written decision and must include a copy of the written decision.

(d) The request for review must be dated and sent by registered or certified mail to the address shown in §839.34(b) of this title (relating to Grievance Filing Procedures at the Local Level).

§839.45. Procedure for Review by SOAH.

(a) Upon receipt of the file relating to the complaint, SOAH shall reach a determination based upon a review of the information provided by each party.

(b) SOAH's review shall be limited to the process utilized at the local level and the complete file utilized at the hearing held by the Commission. SOAH shall not

consider any additional evidence not presented at the hearing held by the Commission. SOAH may only overturn the hearing officer's determination if SOAH determines that there has been an abuse of discretion with regard to the process.

§839.46. Final Written Decision.

SOAH shall issue a written decision to all parties within 40 days from the filing of a request pursuant to §839.44 of this title (relating to Request for Review of a Written Decision). The written decision shall be the final decision rendered at the state level on a complaint and shall either sustain or overrule in whole or in part the Hearing Officer's decision.

§839.47. Remedies.

The following remedies are available to the complainant if deemed appropriate by the Hearing Officer or SOAH officer:

- (1) Suspension or termination of payments to the respondent from funds provided under the Welfare to Work program; or
- (2) Prohibition of placement of a Welfare to Work participant with an employer that is found to have discriminated based on gender, violated health and safety standards, or displaced a regular employee.