

04 NCAC 20C .0106 SANCTIONS

(a) The Division, through the Director, and the Department, through the Secretary, shall be authorized to impose any sanction permitted by the JTPA, applicable federal regulations, the subgrant agreement or the contract document or state law. The Director and the Secretary are the delegates of the Governor and may exercise the sanction authority reserved for the Governor in the JTPA.

(b) Upon a determination that a subrecipient has violated a specific term of the JTPA, the applicable federal regulations, or state law, or that a violation has occurred in a subrecipient's programs or projects or other funded activity, the Director or the Secretary may condition funding to the extent necessary to assure the violations will not continue. If conditional funding does not effect compliance, the Governor may issue a notice of intent to revoke all or part of a subrecipient's funding from the Division. The revocation shall be effective when the time for appeal has expired or the Secretary of Labor has issued a decision on an appeal. The appeal procedure shall correspond to the procedure set forth in Rule .0201 of Chapter 20B.

(c) In the event funds are misspent and identified as misspent during the same grant year, the subrecipient may be permitted to conduct (without federal funds) additional eligible employment and training activities during that same grant year to offset the disallowed costs. The Division shall not be required to provide this opportunity, and it may only be available after the grant year with permission of USDOL. This alternative of in-kind services recoupment of disallowed costs is made available for the purpose of maximizing the activities available to eligible participants in the service delivery areas and to encourage in-house monitoring during a grant year.

(d) In the event that USDOL will revoke funds to the state under the emergency provisions of Section 164(f) of the JTPA and in the event that the activities of one or more subrecipients has caused the funding to be jeopardized, the Governor may immediately suspend or terminate funding to those subrecipients in order to preserve funding to the remaining subrecipients; provided that in such an event an opportunity for a hearing must be provided within 30 days.

(e) All subrecipients shall be responsible for funds received through the Division. The subgrantees and the Division's contractors shall be liable for the disallowed expenditure of any funds received from the Division or for liabilities arising in connection with the operation of the funded activities. The Division may recoup the amount of disallowed expenditures and, if interest is charged by USDOL against the state or if the unauthorized expenditure was willful, may recover appropriate interest from the subgrantee or division contractor. The Division may also go directly against any subrecipient receiving funds, whether or not that subrecipient had received funds directly from the Division, but the Division shall not be required to proceed against those subrecipients.

(f) Any person or entity, including participants or supplier, who makes or causes to be made a willful misrepresentation shall be liable for the costs incurred on account of or received by such person or entity as a result of having made the misrepresentation. This sanction shall be available to any subrecipient who is injured by the misrepresentation, but this sanction shall not require a subrecipient or the Division to endeavor to enforce this liability. This sanction may be enforced through the administrative process as to all parties who receive JTPA funds, who thereby consent to resolution of disputes through this administrative process.

(g) The remedies under this Chapter 20 shall not be construed to be exclusive remedies. The Division shall have all common law remedies available to it with regard to its subrecipients and shall have all remedies provided in executed agreements with subrecipients.

History Note: Authority G.S. 143B-430(b); 150B; Articles 3 and 4; Ex. O. 93, June 8, 1983; JTPA S 164; 20 C.F.R. 629.44; Eff. October 1, 1984; Amended Eff. August 1, 1988; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019.