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**Texas Workforce Commission
High School Equivalency Subsidies (House Bill 3) and
Performance-Based Funding (House Bill 1949)
Policy Concept**

5 **On March 31, 2020, the Texas Workforce Commission's (TWC) three-member**
6 **Commission approved the following pertaining to TWC rules under Texas Administrative**
7 **Code Chapter 800 General Administration and Chapter 805 Adult Education and Literacy**
8 **rules.**

9 **TWC will accept public comment on this policy concept for a period of 30 days following**
10 **the date of publication in the *Texas Register*.**

11 **Submit comments to TWCPolicyComments@twc.state.tx.us.**

12 **Background**

13 House Bill (HB) 3 and HB 1949, enacted by the 86th Texas Legislature, Regular Session (2019),
14 require the Texas Workforce Commission (TWC) to develop rules to implement that legislation.

15 HB 3 §1.046 requires the Texas Education Agency (TEA) to enter into a memorandum of
16 understanding (MOU) with TWC when transferring funds to provide a subsidy for the cost of a
17 high school equivalency (HSE) exam for individuals who are 21 years of age or older. HB 3 also
18 requires TWC to develop rules addressing eligibility requirements.

19 HB 1949 introduces a measure related to enrollment and credential achievement performance in
20 HSE programs or postsecondary ability-to-benefit programs that must be included in TWC's
21 Adult Education and Literacy's (AEL) performance-based funding criteria. On October 8, 2019,
22 TWC's three-member Commission (Commission) approved the implementation of HB 1949,
23 adding the criteria for performance-based funding as outlined in the legislation. Furthermore, the
24 Commission requested that staff develop rule language addressing milestones toward meeting
25 the criteria in statute.

26 Underlined text throughout this document is proposed rule language for the Commission to
27 consider when completing the rulemaking process.

28 **Amendments to TWC Chapter 800 General Administration Rules, Relating to Adult**
29 **Education and Literacy**

30 **Issue 1: HB 1949 Implementation**

31 HB 1949 requires TWC to develop rules related to the performance-based funding criteria
32 outlined in HB 1949. Staff proposes amending §800.68, Allocations, which outlines allocation
33 factors and procedures for determining performance benchmarks, would include the required
34 performance criteria outlined in HB 1949. The criteria required under HB 1949 must include the
35 following benchmarks, as stated in the bill:

36 “(1) the enrollment in a high school equivalency program or a postsecondary ability to
37 benefit program of at least 25 percent of all students receiving adult education and
38 literacy services from the entity during that program year; and

1 (2) the achievement by the end of that program year of a high school equivalency
2 certificate or a postsecondary certificate by at least 70 percent of those students who exit
3 the entity’s adult education program during that program year and who are enrolled in a
4 high school equivalency program or a postsecondary ability to benefit program.”

5 As requested by the Commission on October 8, 2019, staff shall develop rules to address
6 performance criteria that establish capacity-improvement milestones reflecting increased AEL
7 program performance toward meeting HB 1949 criteria.

8 Proposed direction for the Commission to consider to define these criteria and the
9 criteria for meeting milestones in §800.68 is as follows:

10 (g) Performance benchmarks:

11 (1) shall include a measure for high school equivalency (HSE) or ability-to-benefit
12 program enrollment and achievement, as follows:

13 (A) At least 25 percent of all participants served in the program year must be
14 enrolled in an HSE or postsecondary ability-to-benefit program.

15 (B) At least 70 percent of participants who were in an HSE or postsecondary
16 ability-to-benefit program during the program year and exited during the
17 program year must achieve either an HSE or a recognized postsecondary
18 credential.

19 (2) shall be approved by the Commission each program year for milestones toward
20 meeting HSE or ability-to-benefit program enrollment and achievement outlined
21 in g(1).

22 To clarify the performance measures, staff proposes developing a definition in §800.52 for
23 “postsecondary ability-to-benefit program” and emphasizing that this definition pertains to
24 performance-based funding criteria only. HB 1949 provides the following definition:

25 “Postsecondary ability to benefit program” means a postsecondary certificate program in
26 which a person who does not have a high school diploma or equivalency certificate and who
27 both qualifies for federal student financial aid and demonstrates on an assessment instrument
28 that the person can pass college-level courses with some support may enroll.”

29 Proposed direction for the Commission to consider to define this term is as follows:

30 Postsecondary Ability-to-Benefit Program: For the purposes of performance-based funding
31 criteria as outlined in §800.68, a postsecondary ability-to-benefit program is a postsecondary
32 education or training program that:

- 33 • results in a recognized postsecondary credential and
- 34 • enrolls AEL eligible participants who:
 - 35 ➤ do not have a high school diploma or recognized equivalency;
 - 36 ➤ qualify for federal student financial aid eligibility under the federal Ability-to-Benefit
37 provisions enacted in §484(d) of the Higher Education Act of 1965; and
 - 38 ➤ demonstrate on an assessment instrument that the participant can pass college-level
39 courses with some support.

40 **Issue 2: HB 3 Implementation**

1 Chapter 800, Subchapter F, Interagency Matters, provides the public with information about
2 TWC MOUs. Because HB 3 requires TEA to enter into an MOU with TWC in order to transfer
3 funds to implement the HSE subsidy program, TWC will develop rules to describe the MOU
4 with TEA.

5 **Decision Point**

6 Staff seeks direction on amending Chapter 800 to develop rules as required by HB 1949 and HB
7 3.

8 **Amendments to Chapter 805 Adult Education and Literacy Rules**

9 **Issue 3: HB 3 Implementation**

10 HB 3 requires TWC to develop rules outlining the eligibility determination process for
11 individuals receiving an HSE test subsidy and for the program implementation. Staff has
12 identified TWC Chapter 805 Adult Education and Literacy rules as the chapter in which to create
13 new Subchapter E, High School Equivalency Subsidy Program, to describe new rules pertaining
14 to the subsidy program.

15 HB 3 adds §48.302(b) to the Texas Education Code, which states that TEA will enter into an
16 MOU with TWC to transfer funds for TWC “to provide to an individual who is 21 years of age
17 or older a subsidy in an amount equal to the cost of taking one high school equivalency
18 examination administered under Section 7.111.”

19 HB 3 further states that TWC is required to “adopt rules to implement the subsidy program
20 described by Subsection (b), including rules regarding eligibility requirements.”

21 Staff proposes developing rules in new Subchapter E to outline the implementation of this
22 program, including:

- 23 • the purpose of the HSE subsidy program, as stated in HB 3;
- 24 • the eligibility criteria for individuals to receive the subsidy, as proposed by staff;
- 25 • TWC’s process for distributing the subsidy to workforce programs, including designating
26 AEL program participants as the first priority in the distribution process, as proposed by
27 staff; and
- 28 • the means for ensuring an efficient and effective annual distribution of funds, as proposed
29 by staff.

30 **Defining Eligible Individuals and HSE Subsidy**

31 HB 3 requires TWC to implement the subsidy program for eligible individuals, defined in statute
32 as individuals who are 21 years of age or older. TWC staff proposes creating new Subchapter E,
33 which will define an “eligible individual” as a Texas resident, 21 years of age or older at the time
34 a voucher for the HSE is issued to the individual who lacks a high school diploma or its
35 equivalent.

36 A “subsidy” will be defined as an amount not to exceed the cost of one complete HSE test. A
37 complete test is composed of multiple subject tests or sections.

38 A “voucher” will be defined as an electronic or paper-based voucher provided to an eligible
39 individual for taking one HSE subject test or section and is equal to the amount of one GED
40 subject test or HiSET section.

1 **Distribution of HSE Subsidies**

2 Subchapter E will also outline the process for administering the HSE subsidy program across the
3 state. Rule development in this subchapter will address prioritizing subsidies to eligible AEL
4 participants and include provisions for eligible individuals who are not currently AEL
5 participants to access the subsidy.

6 TWC will administer and manage electronic and paper vouchers to distribute to AEL grant
7 recipients. The Commission will approve an annual distribution of vouchers based on historical
8 data of HSE test takers in that workforce area. Each grantee will receive an initial partial voucher
9 distribution, and by midyear, the Commission will have the option to either approve release of
10 the balance of vouchers or make adjustments in the distribution of vouchers across the state
11 based on use by AEL grant recipients.

12 After the Commission has approved the distribution of vouchers:

- 13 • TWC will distribute vouchers to AEL grant recipients; and
- 14 • AEL grant recipients will be responsible for:
 - 15 ➤ confirming eligibility and the preparedness of the individual to take the HSE subject
 - 16 test or section; and
 - 17 ➤ tracking voucher distribution at the local level.

18 The voucher has no value until it is redeemed at a testing center by the designated individual.
19 Upon redemption, the test vendor will bill TWC for the redeemed vouchers.

20 Proposed direction for the Commission to consider taking to develop rules that outline the
21 program implementation of the HSE subsidy program, as stated in HB 3, is as follows:

22 **SUBCHAPTER E. HIGH SCHOOL EQUIVALENCY SUBSIDY PROGRAM**

23 §805.XX. Purpose

24 The purpose of the high school equivalency (HSE) subsidy program, as provided in an
25 interagency contract between the Texas Education Agency and the Texas Workforce
26 Commission (TWC), is to provide subsidized high school examination fees for eligible
27 individuals.

28 §805.XX. Definitions

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

31 (1) "Eligible individual" means a Texas resident who is 21 years of age or older at the time
32 that a voucher for the subsidy is issued to the individual and who lacks a high school diploma
33 or its equivalent.

34 (2) "Subsidy" is an amount not to exceed the cost of one HSE exam.

35 (3) "Subsidy program" refers to the HSE subsidy program.

36 (4) "Voucher" refers to an electronic or paper-based voucher provided to an eligible
37 individual for taking one individualized HSE test.

1 §805.XX. Implementation

2 (a) When implementing the HSE subsidy program, TWC will prioritize the subsidy to
3 eligible individuals who participate in the AEL program.

4 TWC may provide the subsidy to eligible individuals who are not currently participants.

5 (b) The Commission will approve an initial annual distribution of vouchers to the AEL grant
6 recipient based on the grant recipient's historical data of HSE test takers. Each grant recipient
7 will receive an initial partial voucher distribution, and by midyear, or as deemed needed by
8 staff, the Commission will have the option to either approve release of the balance of
9 vouchers or make adjustments in the distribution of vouchers across the state based on the
10 use by AEL grant recipients.

11 (c) AEL grant recipients will manage the distribution of vouchers to eligible individuals and
12 shall confirm the eligibility of an individual to receive the subsidy via a voucher.

13 (d) The HSE test vendor shall invoice TWC for redeemed vouchers.

14 **Decision Point**

15 Staff seeks direction on developing rules in Chapter 805, new Subchapter E, High School
16 Equivalency Subsidy Program, as proposed by staff in this policy concept, to enable
17 implementation of the HSE subsidy program required under HB 3.