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1                                   **CHAPTER 840. WIOA ELIGIBLE TRAINING PROVIDERS**

2  
3                   **SUBCHAPTER A. GENERAL PROVISIONS**

4  
5                   **§840.1. Short Title and Purpose.**

- 6  
7                   (a) The rules contained in this chapter may be cited as the WIOA Eligible Training  
8                   Provider (ETP) Rules.  
9  
10                  (b) The purpose of this chapter governing the provision of training services funded  
11                  through the Agency is to interpret and implement the requirements of federal statutes  
12                  and regulations to include:  
13  
14                  (1) the following sections of the Workforce Innovation and Opportunity Act  
15                  (WIOA), PL 113-128:  
16  
17                          (A) Eligible Training Providers as described in WIOA §122;  
18  
19                          (B) contents of ETP performance reports as described in WIOA §116(d)(4);  
20  
21                          (C) data validation as described in WIOA §116(d)(5);  
22  
23                          (D) publication of performance reports as described in WIOA §116(d)(6)(B);  
24                          and  
25  
26                          (E) training services for adults and dislocated workers as described in WIOA  
27                          §134(c)(3);  
28  
29                  (2) 20 CFR Part 680, Subparts B - D, which describe training services, training  
30                  providers, and individual training accounts;  
31  
32                  (3) 20 CFR §681.550, which allows the provision of training services to out-of-  
33                  school youth, ages 16 to 24, through Individual Training Accounts (ITA); and  
34  
35                  (4) the Family Educational Rights and Privacy Act (described in 20 CFR 99) audit  
36                  or evaluation exception to disclose Personally Identifiable Information (PII)  
37                  from education records for WIOA performance accountability purposes. This  
38                  authority is further clarified in joint guidance released by the US Department  
39                  of Labor (DOL) and the US Department of Education (ED).  
40  
41                  (c) The rules contained in this chapter shall apply to the Agency, Local Workforce  
42                  Development Boards (Boards), and providers of training services for WIOA Adults  
43                  and Dislocated Workers. At the discretion of the Board, the Eligible Training  
44                  Provider System (ETPS) may be applied to the delivery of training services funded  
45                  through the Commission, including WIOA Youth Program out-of-school youth and

1 in-school youth, Choices, Supplemental Nutrition Assistance Program - Employment  
2 and Training (SNAP E&T), and Trade Adjustment Assistance (TAA).

3  
4 *The provisions of this §840.1 adopted to be effective January 4, 2021, 46 TexReg 195*

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7  
8 **§840.2. Definitions.**

9  
10 The following words and terms, when used in this chapter, shall have the following  
11 meanings, unless the context clearly indicates otherwise.

- 12
- 13 (1) Address of record--In addition to the mailing address contained in the  
14 application for approval, each provider shall establish an email address of  
15 record, with the format of the address to be  
16 "ProviderName.Director@xdomain." This email address of record must  
17 consistently include a minimum of two current recipients. Providers currently  
18 licensed with TWC's Career Schools and Colleges (CSC) program must use  
19 their CSC-approved email of record.  
20
  - 21 (2) Agency--The unit of state government established under Texas Labor Code,  
22 Chapter 301, that is presided over by the Commission and administered by the  
23 executive director to operate the integrated workforce development system and  
24 administer the unemployment compensation insurance program in this state as  
25 established under the Texas Unemployment Compensation Act, Texas Labor  
26 Code Annotated, Title 4, Subtitle A, as amended. The definition of Agency  
27 shall apply to all uses of the term in rules contained in this chapter.  
28
  - 29 (3) Community--Based Organization--As defined in WIOA §3(10), a private  
30 nonprofit organization (which may include a faith-based organization), that is  
31 representative of a community or a significant segment of a community and  
32 that has demonstrated expertise and effectiveness in the field of workforce  
33 development.  
34
  - 35 (4) Customized Training--As defined in WIOA §3(14), means training:  
36  
37 (A) that is designed to meet the specific requirements of an employer  
38 (including a group of employers);  
39  
40 (B) that is conducted with a commitment by the employer to employ an  
41 individual upon successful completion of the training; and  
42  
43 (C) for which the employer pays:  
44  
45 (i) a significant portion of the cost of training, as determined by the  
46 local Board, taking into account the size of the employer and such

1 other factors that the local Board determines to be appropriate,  
2 which may include the number of employees participating in  
3 training, wage, and benefit levels of those employees (at present  
4 and anticipated upon completion of the training), relation of the  
5 training to the competitiveness of a participant, and other  
6 employer-provided training and advancement opportunities; and  
7

- 8 (ii) in the case of customized training (as defined in subparagraphs (A)  
9 and (B) of this paragraph) involving an employer located in  
10 multiple local areas in the state, a significant portion of the cost of  
11 the training, as determined by the Commission, taking into account  
12 the size of the employer and such other factors that the  
13 Commission determines to be appropriate.  
14
- 15 (5) Eligible Training Provider (ETP)--A training provider as defined by this  
16 chapter with one or more programs included on the statewide ETPL.  
17
- 18 (6) Individual Training Account (ITA)--Payment agreement established by a local  
19 Board on behalf of a participant with a training provider. ITAs may be used  
20 only to pay for a training program included on the statewide ETPL, except  
21 where an out-of-state program is approved by the Board in accordance with  
22 §840.53 of this chapter (relating to WIOA Violations).  
23
- 24 (7) LWDA--Local Workforce Development Area (workforce area) designated by  
25 the governor as provided in Texas Government Code, §2308.252.  
26
- 27 (8) LWDB--Local Workforce Development Board (Board) created pursuant to  
28 Texas Government Code, §2308.253, and certified by the governor pursuant to  
29 Texas Government Code, §2308.261.  
30
- 31 (9) On-the-Job Training (OJT)--As defined by WIOA §3(44), a training by an  
32 employer that is provided to a paid participant while engaged in productive  
33 work in a job that:  
34
- 35 (A) provides knowledge or skills essential to the full and adequate  
36 performance of the job;  
37
- 38 (B) is made available through a program that provides the employer with  
39 partial reimbursement of the wage rate of the participant for the  
40 extraordinary costs of providing the training and additional supervision  
41 related to the training; and  
42
- 43 (C) is limited in duration as appropriate to the occupation for which the  
44 participant is being trained, taking into account the content of the  
45 training, the prior work experience of the participant, and the service  
46 strategy of the participant, as appropriate.

1  
2 (10) Target Occupations--As determined by LWDA, include:

3  
4 (A) occupations that:

5  
6 (i) are in-demand, as defined by WIOA §3(23);

7  
8 (ii) have a dedicated training component; and

9  
10 (iii) provide wages that meet self-sufficiency requirements in the  
11 LWDA; or

12  
13 (B) occupations that are included in career pathway leading to an occupation  
14 described in subparagraph (A) of this paragraph.

15  
16 (11) Training Provider--As set out in WIOA §122(a)(2), provides a program  
17 containing one or more training services, as defined by this chapter, and must  
18 be one of the following entities:

19  
20 (A) an institution of higher education that provides a program that leads to a  
21 recognized postsecondary credential;

22  
23 (B) an entity that carries out programs registered under the Act of August 16,  
24 1937 (commonly known as the "National Apprenticeship Act"; 50 Stat.  
25 664, chapter 663; 29 USC 50 et seq.); or

26  
27 (C) another public or private provider of a program of training services,  
28 which may include:

29  
30 (i) community-based organizations;

31  
32 (ii) joint labor-management organizations; and

33  
34 (iii) eligible providers of adult education and literacy activities under  
35 WIOA Title II, if such activities are provided in combination with  
36 occupational skills training.

37  
38 (12) Training Services--As provided in WIOA §134(c)(3)(D), may include:

39  
40 (A) occupational skills training, including training for nontraditional  
41 employment;

42  
43 (B) OJT;

44  
45 (C) incumbent worker training;

46

- (D) programs that combine workplace training with related instruction, which may include cooperative education programs;
- (E) training programs operated by the private sector;
- (F) skill upgrading and retraining;
- (G) entrepreneurial training;
- (H) transitional jobs;
- (I) job readiness training provided in combination with any services described in subparagraphs (A) - (H) of this paragraph;
- (J) adult education and literacy activities, including activities of English language acquisition and integrated education and training programs, provided concurrently or in combination with any services described in subparagraphs (A) - (H) of this paragraph;
- (K) customized training conducted with a commitment by an employer or group of employers to employ an individual upon successful completion of the training.

(13) WIOA--Workforce Innovation and Opportunity Act, PL 113 - 128, 29 USCA §3101, et seq., enacted July 22, 2014.

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## **SUBCHAPTER B. TRAINING PROVIDER ELIGIBILITY**

### **§840.10. Appropriate Licensure.**

- (a) Training providers, as defined by this chapter, shall provide evidence of appropriate licensure or exemption from licensure or regulation in a manner determined by the Commission.
- (b) Institutions and agencies included in Texas Education Code, §61.003 shall be considered appropriately licensed for the purposes of this section.
- (c) Proprietary Schools in compliance with the requirements of Texas Education Code Chapter 132 shall be considered appropriately licensed for the purposes of this section.
- (d) Registered Apprenticeship Programs (RAPs) approved by the DOL are exempt from all requirements of this section. Industry Recognized Apprenticeship Programs

1 (IRAPs) must comply with licensure and eligibility requirements described in this  
2 section.

3  
4 *The provisions of this §840.10 adopted to be effective January 4, 2021, 46 TexReg 195*

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7  
8 **§840.11. Eligibility of Training Providers.**

- 9  
10 (a) Training providers shall provide one or more training services, as defined in this  
11 chapter, to be considered eligible for the statewide ETPL.  
12  
13 (b) Training providers shall submit information required by the Agency for  
14 determination of eligibility. This information shall be submitted in a manner  
15 determined by the Agency.  
16  
17 (c) Boards and the Agency shall review information submitted by training providers in  
18 order to determine eligibility.  
19

20 *The provisions of this §840.11 adopted to be effective January 4, 2021, 46 TexReg 195*

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23  
24 **SUBCHAPTER C. TRAINING PROGRAM ELIGIBILITY**

25  
26 **§840.20. Initial Eligibility Consideration.**

- 27  
28 (a) All training programs that have not previously been determined eligible for the  
29 statewide ETPL shall submit such eligibility criteria and performance information  
30 required by the Agency. This information shall be submitted in a manner determined  
31 by the Agency.  
32  
33 (b) Eligibility criteria shall include:  
34  
35 (1) a connection to statewide targeted occupations;  
36  
37 (2) a partnership with businesses in Texas, in accordance with Agency guidance;  
38 and  
39  
40 (3) other criteria required by the Commission.  
41  
42 (c) Performance information shall include such requirements as determined necessary  
43 by the Agency.  
44  
45 (d) The Agency may exempt a program from the performance information requirement  
46 for initial eligibility determination. Such exemption may be applied when a program



1 has not been connected to any students or when such connection is of insufficient  
2 duration to calculate performance.

- 3
- 4 (e) The Commission may determine minimum performance targets for initial eligibility  
5 for the statewide ETPL.
- 6
- 7 (f) Boards and the Agency shall review program eligibility criteria and aggregated  
8 performance information submitted by training programs in order to determine  
9 eligibility.
- 10
- 11 (g) Training programs determined eligible under this subchapter shall be approved for  
12 inclusion on the statewide ETPL for up to 12 months following approval by the  
13 Agency.
- 14
- 15 (h) Following the initial eligibility period, training programs shall be subject to  
16 continued eligibility determination.

17

18 *The provisions of this §840.20 adopted to be effective January 4, 2021, 46 TexReg 195*

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21

22 **§840.21. Continued Eligibility Consideration.**

- 23
- 24 (a) Training programs shall be subject to continued eligibility determination within 12 to  
25 24 months following previous eligibility determination, as determined by the  
26 Agency.
- 27
- 28 (b) The Agency shall use such information provided during the most recent annual  
29 performance reporting period, including provider and program eligibility and student  
30 performance outcomes, for continued eligibility consideration.
- 31
- 32 (c) Eligibility criteria shall include:
- 33
- 34 (1) such information required for Initial Eligibility determination;
- 35
- 36 (2) such additional criteria included in 20 CFR §680.460; and
- 37
- 38 (3) other criteria required by the Agency deemed necessary to determine a  
39 provider's eligibility.
- 40
- 41 (d) Training programs shall submit, through annual reporting, required performance  
42 information, which shall include, but may not be limited to, the following:
- 43
- 44 (1) Information on recognized postsecondary credentials received by participants;  
45 and
- 46

1 (2) Such information required by and developed from annual reporting.

2  
3 (e) The Commission shall determine minimum performance targets for continued  
4 eligibility for the statewide ETPL. The Commission may review and adjust  
5 established minimum performance targets as determined necessary for the efficient  
6 operation of the program.

7  
8 (f) Boards and the Agency shall review aggregated performance information submitted  
9 by training programs to determine whether the information meets or exceeds the  
10 program eligibility criteria and shall notify providers of any adverse determination in  
11 accordance with Subchapter F of this chapter (relating to Adverse Actions).

12  
13 (g) Training programs determined eligible under this subchapter shall be approved for  
14 inclusion on the statewide ETPL for up to 24 months following approval by the  
15 Agency.

16  
17 *The provisions of this §840.21 adopted to be effective January 4, 2021, 46 TexReg 195*

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20  
21 **§840.22. Registered Apprenticeship Programs.**

22  
23 (a) DOL-approved RAPs shall submit the following information to the Agency for  
24 program inclusion on the statewide ETPL:

25  
26 (1) Name and address of the RAP sponsor;

27  
28 (2) Name and address of related technical instruction provider, if different from  
29 sponsor;

30  
31 (3) Cost of instruction, where instruction is not provided directly by sponsor;

32  
33 (4) Related occupations;

34  
35 (5) Method and length of instruction;

36  
37 (6) Number of active apprentices; and

38  
39 (7) Other information required by the Agency not expressly prohibited by DOL.

40  
41 (b) RAPs are exempt from all other requirements of this subchapter.

42  
43 (c) RAPs may voluntarily provide performance and other information to the Agency.  
44 Such information will be included on the statewide ETPL as appropriate.

45  
46 *The provisions of this §840.22 adopted to be effective January 4, 2021, 46 TexReg 195*

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2  
3 **§840.23. Additional Eligibility Requirements.**

- 4  
5 (a) The Commission may apply additional requirements to training programs for  
6 inclusion on the statewide ETPL.  
7  
8 (b) Additional requirements developed under this subsection shall be applied to ETP  
9 programs during Initial or Continued Eligibility determinations.

10  
11 *The provisions of this §840.23 adopted to be effective January 4, 2021, 46 TexReg 195*

12  
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14  
15 **SUBCHAPTER D. ANNUAL REPORTING**

16  
17 **§840.30. Annual Performance Reporting Requirement.**

- 18  
19 (a) Each year, all training providers and programs included on the statewide ETPL shall  
20 submit all information determined necessary by the Agency. Such information shall  
21 include, at a minimum, student-level data for each program.  
22  
23 (b) Required student-level data may include the following:  
24  
25 (1) First name of student;  
26  
27 (2) Last name of student;  
28  
29 (3) Student's Social Security number (SSN), except where unavailable;  
30  
31 (4) Student's first date of attendance;  
32  
33 (5) Student's last date of attendance, when applicable;  
34  
35 (6) Type of recognized credential earned and the date on which it was received,  
36 when applicable; and  
37  
38 (7) Other information as determined by the Agency.  
39  
40 (c) The Agency shall use student-level data submitted by providers to determine  
41 performance outcomes for provider programs. The student SSN shall be used to  
42 verify employment-related outcomes. Such performance outcomes shall include for  
43 WIOA participants and students in general:  
44  
45 (1) Program completion rate;  
46

- 1 (2) Percentage in unsubsidized employment during the second quarter after exit  
2 from the program;
- 3
- 4 (3) Percentage in unsubsidized employment during the fourth quarter after exit  
5 from the program;
- 6
- 7 (4) Median earnings of those in unsubsidized employment during the second  
8 quarter after exit from the program;
- 9
- 10 (5) Percentage obtaining a recognized postsecondary credential or high school  
11 equivalency during participation in or within one year after exit from the  
12 program; and
- 13
- 14 (6) Other performance outcomes required by the Agency.
- 15

16 *The provisions of this §840.30 adopted to be effective January 4, 2021, 46 TexReg 195*

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18 **§840.31. Notification of Annual Reporting Requirement.**

- 19
- 20
- 21
- 22 (a) The Agency shall determine the date and method of reporting.
- 23
- 24 (b) Boards and training providers shall be notified of the annual reporting requirements  
25 not less than 30 days prior to the deadline set by the Agency.
- 26
- 27 (c) The Agency shall determine the method of notification, which may include public  
28 release, formal guidance, address of record email notification, or other methods.
- 29
- 30 (d) Providers are responsible for maintaining accurate contact information for locations  
31 and programs in order that the Agency may provide such notifications. This includes,  
32 but may not be limited to, email address of record.
- 33
- 34 (e) Providers of training programs unable to report prior to the annual reporting deadline  
35 set by the Agency may request an extension or exemption from reporting caused by  
36 circumstances beyond the provider's control, which may include:
  - 37 (1) natural disaster or other state emergency;
  - 38
  - 39 (2) unexpected personnel transitions;
  - 40
  - 41 (3) unexpected technology-related issues; or
  - 42
  - 43 (4) other circumstances determined acceptable by the Agency.
  - 44
  - 45

- 1 (f) Providers shall request an extension for, or exemption from, annual performance  
2 reporting within 30 days of the occurrence reason--but no later than the required  
3 reporting date--for consideration by the Agency.  
4  
5 (g) Failure to submit required information in accordance within Agency-determined  
6 time lines shall result in removal of affected training programs from the statewide  
7 ETPL for not less than two years (24 months).  
8

9 *The provisions of this §840.31 adopted to be effective January 4, 2021, 46 TexReg 195*

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12

### 13 **SUBCHAPTER E. STATEWIDE ELIGIBLE TRAINING PROVIDER LIST**

#### 14 **§840.40. Statewide ETPL.**

- 15  
16  
17 (a) The statewide ETPL shall contain all eligible programs submitted by training  
18 providers, once approved, to provide services through ITAs to WIOA participants.  
19  
20 (b) In order to provide usable information for WIOA participants, and students in  
21 general, the statewide ETPL shall contain such program information required by the  
22 Agency.  
23  
24 (c) Performance information provided to the Agency on an eligible provider's programs  
25 shall be included with the statewide ETPL provided that such information does not  
26 reveal personally identifiable information of students.  
27  
28 (d) The statewide ETPL shall include such RAPs approved by the Agency in accordance  
29 with this chapter.  
30

31 *The provisions of this §840.40 adopted to be effective January 4, 2021, 46 TexReg 195*

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34

#### 35 **§840.41. Distribution of the Statewide ETPL.**

- 36  
37 (a) The Agency shall make the statewide ETPL available to the public, secondary, and  
38 postsecondary educational systems and its other partners through the Agency's  
39 website.  
40  
41 (b) Updates to the statewide ETPL will be published at a frequency determined by the  
42 Agency, but not less than monthly.  
43  
44 (c) The Agency shall provide the statewide ETPL in a format accessible to individuals  
45 with disabilities.  
46

1 (d) Boards shall ensure that the statewide ETPL is locally available in a current and  
2 accessible format.

3  
4 (e) Boards shall make the statewide ETPL available to the following:

5  
6 (1) Local Workforce Solutions Offices and staff;

7  
8 (2) Local partners, including those providing training or related services;

9  
10 (3) Program participants; and

11  
12 (4) The public.

13  
14 (f) Boards shall ensure that the statewide ETPL is made available to WIOA program  
15 participants eligible for training even when local information is developed, in  
16 accordance with §840.61 of this chapter (relating to Individual Training Accounts).

17  
18 *The provisions of this §840.41 adopted to be effective January 4, 2021, 46 TexReg 195*

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21  
22 **§840.42. Removal from the Statewide ETPL.**

23  
24 (a) Voluntary Removal. Providers may request that a program be removed from the  
25 statewide ETPL. Such requests shall:

26  
27 (1) be submitted by a provider in a manner determined by the Agency; and

28  
29 (2) be processed in a manner determined by the Agency.

30  
31 (b) Programs voluntarily removed from the statewide ETPL may be redetermined for  
32 inclusion following such request from an eligible provider.

33  
34 (c) Removal for Cause. Providers and programs may be removed from the statewide  
35 ETPL in accordance with Subchapter F of this chapter (relating to Adverse Actions).

36  
37 (d) Programs involuntarily removed from the statewide ETPL may be redetermined for  
38 inclusion following the removal period included in Subchapter F of this chapter. At  
39 such time, programs shall submit such information required by the Commission to  
40 determine current eligibility for reentry on the statewide ETPL.

41  
42 (e) Removed programs that are provided reentry to the statewide ETPL will need to  
43 meet the continued eligibility requirements for purposes of eligibility determination  
44 and performance reporting.

45  
46 *The provisions of this §840.42 adopted to be effective January 4, 2021, 46 TexReg 195*

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2  
3 **SUBCHAPTER F. ADVERSE ACTIONS**

4  
5 **§840.50. Eligibility Actions.**

- 6  
7 (a) Removal of a program for failure to meet eligibility criteria shall occur following the  
8 end of the initial or continued eligibility period for such program, except where  
9 otherwise described in this subchapter.
- 10  
11 (b) The Board or Agency may review or reverse previous decisions if the provider  
12 submits new information that may affect the eligibility of such programs.
- 13  
14 (c) RAPs shall be removed under this section only if such programs become  
15 deregistered under the National Apprenticeship Act.

16  
17 *The provisions of this §840.50 adopted to be effective January 4, 2021, 46 TexReg 195*

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20  
21 **§840.51. Reporting Actions.**

- 22  
23 (a) Failure to submit required annual reporting information, including performance  
24 outcomes, in accordance within Agency-determined time lines shall result in removal  
25 of affected programs from the statewide ETPL for not less than two years.
- 26  
27 (b) Failure to submit information for any individual program shall result in the removal  
28 of such program.
- 29  
30 (c) Removal shall occur following the end of the reporting period, as determined by the  
31 Agency.
- 32  
33 (d) RAPs shall be exempt from actions taken under this section.

34  
35 *The provisions of this §840.51 adopted to be effective January 4, 2021, 46 TexReg 195*

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38  
39 **§840.52. Performance Actions.**

- 40  
41 (a) Failure to meet or exceed any performance requirements set by the Commission may  
42 result in:
- 43  
44 (1) removal of a program from the statewide ETPL, for a period of time  
45 determined by the Agency; or
- 46

1 (2) placement in a temporary performance improvement plan at the Agency's  
2 discretion.

3  
4 (b) Removal shall occur following the end of the reporting period or performance  
5 improvement plan, as determined by the Agency.

6  
7 (c) RAPs, including those voluntarily providing performance information to the  
8 Commission, shall be exempt from actions taken under this section.

9  
10 *The provisions of this §840.52 adopted to be effective January 4, 2021, 46 TexReg 195*

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13  
14 **§840.53. WIOA Violations.**

15  
16 (a) Training providers shall comply with all nondiscrimination protections included in  
17 WIOA §188.

18  
19 (b) The Agency shall require providers to submit an acknowledgment of compliance  
20 requirements, addressed in subsection (a) of this section, at initial eligibility  
21 determination in electronic format, or by such other means determined by the  
22 Agency.

23  
24 (c) The Agency shall require providers to submit an acknowledgment of compliance  
25 requirements, addressed in subsection (a) of this section, during annual report  
26 submission in electronic format or by such other means determined by the Agency.

27  
28 (d) A local Board or the Agency may determine if a provider has violated any protection  
29 provided by WIOA. If such determination is made, the provider will be considered to  
30 have substantially violated the rules of this chapter.

31  
32 (e) Providers determined to have substantially violated the rules of this chapter shall  
33 have their programs removed from the statewide ETPL immediately. Removal for  
34 such violation shall be for not less than two years.

35  
36 (f) The Agency may require providers that have been determined to have violated the  
37 rules of this chapter repay any funds provided under this chapter during the period of  
38 such violation.

39  
40 *The provisions of this §840.53 adopted to be effective January 4, 2021, 46 TexReg 195*

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43  
44 **§840.54. Continuation of Students in Removed Programs.**



- 1 (a) Students enrolled in a program removed under this subchapter, except §840.53 of  
2 this subchapter (relating to WIOA Violations), shall be allowed to continue in  
3 training when the ITA was encumbered before such removal.  
4
- 5 (b) For programs removed under §840.53 of this subchapter, the Agency may require  
6 that students be discontinued following removal. Boards may place a student  
7 affected by program removal into a similar program, in accordance with local  
8 policies, when available.  
9

10 *The provisions of this §840.54 adopted to be effective January 4, 2021, 46 TexReg 195*

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12  
13  
14 **§840.55. Right of Appeal.**

- 15
- 16 (a) Providers or programs, as defined by this chapter, shall have the right to appeal  
17 adverse actions included in this subchapter, in accordance with Chapter 823 of this  
18 title (relating to Integrated Complaints, Hearing, and Appeals).  
19
- 20 (b) Providers subject to removal as a result of any adverse action described in this  
21 chapter shall receive notice by the Agency of pending action and their rights to  
22 appeal such decision.  
23

24 *The provisions of this §840.55 adopted to be effective January 4, 2021, 46 TexReg 195*

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27  
28 **SUBCHAPTER G. STATE AND LOCAL FLEXIBILITY**

29  
30 **§840.60. Determining Target Occupations.**

- 31
- 32 (a) Annually, each Board shall adopt a list of target occupations in the LWDA.  
33
- 34 (b) In adopting the list of target occupations, the Board:
- 35
- 36 (1) shall consider labor market information provided by the Agency; and  
37
- 38 (2) may consider additional local information which may include, but is not  
39 limited to:
- 40
- 41 (A) information provided by businesses and business organizations;  
42
- 43 (B) information provided by workers and worker organizations; or  
44
- 45 (C) information provided by economic development or occupational  
46 organization partners.

- 1  
2 (c) The Agency shall maintain the target occupation lists for each LWDA, including any  
3 updates provided by Boards. The target occupation list from each Board shall be  
4 compiled into a single statewide target occupation list.  
5

6 *The provisions of this §840.60 adopted to be effective January 4, 2021, 46 TexReg 195*  
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9

10 **§840.61. Individual Training Accounts.**  
11

- 12 (a) A participant determined eligible for training may use an ITA to pay for the cost of  
13 training programs that are:  
14  
15 (1) included on the statewide ETPL; or  
16  
17 (2) locally approved out-of-state programs.  
18  
19 (b) ITAs shall include only those costs required for successful completion of training  
20 programs, which are paid directly to providers of programs on the statewide ETPL or  
21 locally approved out-of-state programs.  
22  
23 (c) Boards shall ensure that ITA allowance does not exceed training costs listed for  
24 programs at the time of student enrollment.  
25  
26 (d) Additional costs related to training programs may be paid using support services  
27 funds, in accordance with existing guidance.  
28  
29 (e) Boards may apply additional criteria to training programs beyond those included in  
30 this chapter. Such additional criteria may include limitations on the:  
31  
32 (1) cost of training programs; and  
33  
34 (2) length of training programs.  
35

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39

40 **§840.62. Training Contracts.**  
41

- 42 (a) Training contracts may be used to fund training programs, listed in this section, for  
43 participants instead of ITAs.  
44  
45 (b) Boards shall provide participants with access to the statewide ETPL and training  
46 contracts as applicable to ensure consumer choice.

- 1  
2 (c) When the Local Plan describes the process to be used in selecting providers under  
3 such contract, a Board may contract with training programs under the following  
4 circumstances:  
5  
6 (1) The training program is an OJT, customized training, incumbent worker  
7 training, or transitional jobs training; or  
8  
9 (2) The Board determines that:  
10  
11 (A) there is an insufficient number of ETPs in the workforce area to  
12 accomplish the purposes of a system of ITAs;  
13  
14 (B) there is a training program with demonstrated effectiveness offered in  
15 Board area by a community-based organization or other private  
16 organization to serve individuals with barriers to employment;  
17  
18 (C) it would be most appropriate to award a contract to an institution of  
19 higher education or other provider of training services to facilitate the  
20 training of multiple individuals in one or more in-demand industry  
21 sectors or occupations; or  
22  
23 (D) the Board enters into a pay-for-performance contract for training  
24 services.  
25  
26 (3) When funded through contracts, training programs listed in subsection (b) of  
27 this section shall be considered exempt from the information and performance  
28 requirements required by this chapter.  
29  
30 (4) Training programs listed in this subchapter that request access to the statewide  
31 ETPL must comply with licensure and eligibility requirements described in  
32 this chapter for such inclusion.  
33

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37  
38 **§840.63. Local Training Program Information.**

- 39  
40 (a) Boards may develop and maintain supplementary information for local programs  
41 eligible for Board ITA funds.  
42  
43 (b) The following programs may be included:  
44  
45 (1) Any programs included on the statewide ETPL; and  
46

1 (2) Out-of-state programs, in accordance with §840.64 of this subchapter (relating  
2 to Out-of-State Training Programs).

3  
4 (c) Such local information shall:

5  
6 (1) not limit consumer choice;

7  
8 (2) not restrict participant access to RAPs included on the statewide ETPL; and

9  
10 (3) be provided to participants and the public in addition to the statewide ETPL, in  
11 accordance with §840.41 of this chapter (relating to Distribution of the  
12 Statewide ETPL).

13  
14 *The provisions of this §840.63 adopted to be effective January 4, 2021, 46 TexReg 195*

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17  
18 **§840.64. Out-of-State Training Programs.**

19  
20 (a) The Agency shall not include out-of-state providers without any physical training  
21 locations in Texas on the statewide ETPL.

22  
23 (b) The Agency may allow Boards to fund out-of-state programs through ITAs when the  
24 following conditions are met:

25  
26 (1) The training program is included on an ETPL in another state or US territory at  
27 the time of student enrollment;

28  
29 (2) The training program is aligned with a local target occupation, or target  
30 occupation in an area to which the participant is willing to commute or  
31 relocate, provided that such location is in Texas;

32  
33 (3) The training program provides performance information, in such a manner as  
34 determined by the Agency, that demonstrates the program meets or exceeds  
35 any Commission-established minimum performance standards;

36  
37 (4) The training program has an existing partnership with a local employer in the  
38 workforce area, as documented by a letter of support or existence of an  
39 employer advisory committee;

40  
41 (5) The Board has submitted such required information for the out-of-state  
42 program in such manner determined by the Agency;

43  
44 (6) The Agency executive director has reviewed and approved the out-of-state  
45 program for ITA eligibility;

- 1 (7) The out-of-state provider and related programs meet ETP eligibility  
2 requirements in accordance with Subchapter B of this chapter (relating to  
3 Training Provider Eligibility);  
4
- 5 (8) Other conditions as required by the Agency; and  
6
- 7 (9) Board policy exists that sufficiently addresses such requirements described in  
8 this section.  
9

- 10 (c) A Board may fund out-of-state training programs through training contracts in  
11 accordance with §840.61 of this subchapter (relating to Individual Training  
12 Accounts).  
13

14 *The provisions of this §840.64 adopted to be effective January 4, 2021, 46 TexReg 195*

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