

1 **CHAPTER 805. ADULT EDUCATION AND LITERACY**

2
3 **ADOPTED RULES WITH PREAMBLE TO BE SUBMITTED TO THE TEXAS**
4 **REGISTER. THIS DOCUMENT WILL NOT HAVE ANY SUBSTANTIVE CHANGES**
5 **BUT IS SUBJECT TO FORMATTING CHANGES AS REQUIRED BY THE TEXAS**
6 **REGISTER.**

7
8 **ON FEBRUARY 4, 2014, THE TEXAS WORKFORCE COMMISSION ADOPTED THE**
9 **BELOW RULES WITH PREAMBLE TO BE SUBMITTED TO THE TEXAS REGISTER.**

10
11 Estimated date of publication in the *Texas Register*: February 21, 2014

12 The rules will take effect: February 24, 2014

13
14 The Texas Workforce Commission (Commission) adopts new Chapter 805, relating to Adult
15 Education and Literacy, comprising the following subchapters and sections, *without* changes, as
16 published in the November 29, 2013, issue of the *Texas Register* (38 TexReg 8612):

17
18 Subchapter A. General Provisions, §§805.1, 805.2, 805.4, and 805.5

19 Subchapter B. Staff Qualifications, §805.21

20 Subchapter C. Service Delivery Structure and Alignment, §§805.41, 805.42, 805.44, and 805.45

21 Subchapter D. Other Provisions, §805.61 and §805.62

22
23 The Commission adopts new Chapter 805, relating to Adult Education and Literacy, comprising
24 the following subchapters and sections, *with* changes, as published in the November 29, 2013,
25 issue of the *Texas Register* (38 TexReg 8612):

26
27 Subchapter A. General Provisions, §805.3

28 Subchapter B. Staff Qualifications, §805.22 (withdrawn)

29 Subchapter C. Service Delivery Structure and Alignment, §805.43

30
31 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**

32 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS WITH COMMENTS AND**
33 **RESPONSES**

34
35
36 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**

37 Senate Bill (SB) 307, enacted by the 83rd Texas Legislature, Regular Session (2013), added
38 Texas Labor Code, Chapter 315, which transferred adult education and literacy (AEL) programs
39 from the Texas Education Agency (TEA) to the Commission no later than January 1, 2014.

40
41 SB 307 mandates that the Commission:

42 --develop, administer, and support a comprehensive statewide adult education program and
43 coordinate related federal and state programs for the education and training of adults;

44 --develop the mechanism and guidelines for the coordination of comprehensive adult education
45 and related skills training services for adults with other entities, including public agencies and
46 private organizations, in planning, developing, and implementing related programs;

- 1 --administer adult education funding;
- 2 --prescribe rules and standards for teacher certification and accreditation; and
- 3 --develop a standardized assessment mechanism, and monitor and evaluate educational and
- 4 employment outcomes of students who participate in AEL programs.

5
6 In addition, SB 307 mandates that the Agency use a competitive procurement process to award
7 contracts to service providers of local education programs. To complete a competitive
8 procurement and have contracts in place by July 2014, a January 2014 target date has been set
9 for the adoption of new Chapter 805, regarding AEL.

10
11 Further, to fully incorporate AEL programs into the Agency's administrative oversight
12 framework, amendments are necessary in Chapter 800, regarding General Administration, and
13 Chapter 802, regarding Integrity of the Texas Workforce System. To ensure a seamless
14 transition of rules, the Chapter 800 and Chapter 802 amendments are adopted concurrently with
15 this rulemaking.

16
17 The Commission is well positioned to administer the AEL programs due to its existing network
18 of partnerships and long-standing commitment to promote and support an effective workforce
19 system that offers employers, individuals, and communities the opportunity to achieve and
20 sustain economic prosperity. The Commission, in partnership with 28 Local Workforce
21 Development Boards (Boards) across the state, forms Texas Workforce Solutions, which is
22 available to employers, workers, job seekers, and youth throughout the state. Texas Workforce
23 Solutions provides vital workforce development tools that help workers find and keep good jobs,
24 and help employers hire the skilled workers they need to expand their businesses. Through
25 Workforce Solutions Offices across the state and in collaboration with workforce partners,
26 including community colleges, AEL providers, local independent school districts, economic
27 development groups, and other state agencies, Texas Workforce Solutions provides innovative
28 services to support employers and workers. Collaboration and coordination across these
29 agencies and local entities play a critical role in the success of the Texas workforce system.

30
31 To better understand the major issues currently facing adult education, the Commission held a
32 series of nine public meetings across the state to hear from stakeholders concerning the transfer
33 of the AEL programs from TEA to the Commission, and to gather input about what is currently
34 working well and where there is opportunity for improvement. AEL stakeholder communication
35 has continued throughout the transition, and the Commission greatly values the thoughts,
36 recommendations, and suggestions provided by the AEL stakeholder community.

37
38 The purpose of new Chapter 805 is to set forth the following for AEL programs:

- 39 --General provisions
- 40 --Allowable use of state and federal funds
- 41 --Essential program components
- 42 --Diploma requirements
- 43 --Staff qualifications and training
- 44 --Staff service requirements
- 45 --Procurement and contract provisions
- 46 --Program delivery system

- 1 --Advisory committees
- 2 --Match requirements
- 3 --Tuition and fees
- 4 --Staff development and special projects
- 5 --Evaluation of programs

6
7 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS WITH COMMENTS AND**
8 **RESPONSES**

9
10 **SUBCHAPTER A. GENERAL PROVISIONS**

11 **The Commission adopts new Subchapter A, General Provisions, as follows:**

12
13 **§805.1. Purpose**

14 New §805.1(a) states that this chapter may be referred to as the AEL rules.

15
16 New §805.1(b) sets forth the purpose of the AEL programs, which is to provide adults with
17 sufficient basic education that enables them to effectively:

- 18 --acquire the basic educational skills necessary for literate functioning;
- 19 --participate in job training and retraining programs;
- 20 --obtain and retain employment; and
- 21 --continue their education to at least the level of completion of secondary school and preparation
22 for postsecondary education.

23
24 In enacting SB 307, the Texas legislature expressed the importance of obtaining and retaining
25 employment, continued education, and acquiring basic skills needed for literate functioning.

26
27 The mission of the Commission is to promote and support an effective workforce system that
28 offers employers, individuals, and communities the opportunity to achieve and sustain economic
29 prosperity. By providing opportunities for literacy and basic educational development, the AEL
30 program clearly aligns with this mission by delivering the foundational skills Texas needs for
31 both economic competitiveness and community development.

32
33 The Texas workforce system offers a diverse range of services within Texas communities that
34 support current and future economic prosperity for employers, workers, job seekers, students,
35 and communities. The Commission has a long-standing commitment to providing employment
36 services, consistent with Workforce Investment Act, Title I, including job training and retraining
37 programs, which lead to obtaining and retaining productive employment. Providing employment
38 services and developing innovative ways to help eligible individuals find employment
39 opportunities in high-growth, high-wage industries are central to that commitment. The
40 Commission and its workforce partners provide services that lead to thousands of eligible job
41 seekers entering employment each year. These services include job search assistance, labor
42 market and career-planning information, access to training, and unemployment benefits to those
43 who lose their jobs through no fault of their own.

44
45 Additionally, the Commission:

- 46 --provides services to targeted populations within communities to help them find or maintain

1 employment and become self-sufficient;
2 --oversees federal funds, which subsidize child care for low-income families and enable parents
3 to work or attend workforce training or education activities; and
4 --supports job readiness and job-specific skills training for targeted populations with the goal of
5 leading these individuals to self-sustaining employment.

6
7 Providing Texas' current and future workforce with education, training, and workplace
8 opportunities is essential to the state's future growth and success, and critical to the
9 Commission's mission. To ensure that Texas' workforce has the skills to meet workforce needs
10 now and into the future, the Commission:

11 --supports programs that identify educational and career paths for students, including vocational
12 and technical training, as well as those that require two-year, four-year, and higher education
13 levels; and
14 --develops and distributes educational materials and online tools to help students of all ages and
15 at all levels identify career pathways.

16
17 In past years, the Commission has reinforced that commitment by funding workplace literacy
18 training projects across Texas, thereby providing eligible individuals with limited English
19 proficiency or individuals in need of adult education with workplace literacy training integrated
20 with occupational skills training. These projects have allowed eligible individuals to increase
21 functional education levels and earn a certificate or other credential, ultimately leading to
22 employment, career advancement, and increased wages.

23
24 **Comment:** Nine commenters expressed support of the proposed rules and the direction of
25 the AEL program moving forward. Of these, seven commenters expressed appreciation
26 for the Commission's commitment to move more adults into career and technical
27 postsecondary education and focus on promoting career pathways and integrated service
28 delivery, and believe this focus will help provide the skills necessary for moving more
29 adults into stable and higher-paying jobs.

30
31 **Response:** The Commission appreciates the comments.

32
33 **§805.2. Definitions**

34 New §805.2(1) defines "adult education." Based on an extensive review of TEA rules and
35 consideration of input from numerous AEL stakeholders, the Commission retains this definition
36 as contained in TEA rules at 19 Texas Administrative Code (TAC) §89.21(1), without
37 modification.

38
39 New §805.2(1)(A) defines "adult basic education." Based on an extensive review of TEA rules
40 and consideration of input from numerous AEL stakeholders, the Commission retains this
41 definition as contained in TEA rule §89.21(1)(A), with modifications to clarify that adult basic
42 education instruction is in reading, writing, "and speaking and comprehending" English.

43
44 New §805.2(1)(B) defines "adult secondary education." Based on an extensive review of TEA
45 rules and consideration of input from numerous AEL stakeholders, the Commission retains this
46 definition as contained in TEA rule §89.21(1)(B), without modification.

1
2 New §805.2(1)(C) defines "English literacy education." Based on an extensive review of TEA
3 rules and consideration of input from numerous AEL stakeholders, the Commission retains this
4 definition as contained in TEA rule §89.21(1)(C), without modification.

5
6 New §805.2(2) defines "AEL consortium" as a partnership of educational, workforce
7 development, social service entities, and other public and private organizations that agree to
8 partner, collaborate, plan, and apply for funding to provide AEL and related support services.
9 Consortium members shall include an AEL grant recipient, AEL fiscal agent, AEL lead
10 organization of a consortium, and AEL service provider(s). Consortium members may serve in
11 one or more of the functions in accordance with state statutes and Commission rules.

12
13 A consortium may include a Board, but Board membership is not required. However, in order to
14 ensure a connection to local workforce needs, an AEL consortium must consider and use local
15 labor market data and information regarding employer needs in designing and proposing service
16 delivery strategies.

17
18 New §805.2(3) defines "AEL fiscal agent" as an entity that is assigned financial management
19 duties as outlined in an Agency-AEL contract or is assigned this function as a member of an
20 AEL consortium.

21
22 New §805.2(4) defines "AEL grant recipient" as an eligible grant recipient within a local
23 workforce development area (workforce area), as defined in new §800.2(11) of this title, that is
24 awarded AEL funds by the Agency. The AEL grant recipient also may act as an AEL lead
25 organization of a consortium, AEL fiscal agent, or AEL service provider as designated in an
26 agreement with an AEL consortium.

27
28 New §805.2(5) defines "AEL lead organization of a consortium" as an organization designated
29 as the AEL consortium manager in a written agreement between AEL consortium members. The
30 AEL lead organization of a consortium is responsible for planning and leadership responsibilities
31 as outlined in the written agreement and also may serve as an AEL grant recipient, AEL fiscal
32 agent, or AEL service provider. If a consortium does not identify the lead organization of a
33 consortium through a written agreement, the AEL grant recipient will be presumed to have taken
34 responsibility as the lead organization of the consortium.

35
36 New §805.2(6) defines "AEL service provider" as an entity that is eligible to provide AEL
37 services as specified in 20 USC §9202 and Texas Labor Code §315.003.

38
39 New §805.2(7) defines "contact time." Based on the Commission's extensive review of TEA
40 rules and consideration of input from numerous AEL stakeholders, this section retains the
41 provisions of TEA rule §89.21(3), with modifications to replace the reference to TEA rule
42 "§89.25" with a reference to Commission rule "§805.21."

43
44 New §805.2(8) defines "eligible grant recipient" as an entity that is eligible to receive AEL
45 program funding. Eligible grant recipients include:
46 --(A) a local educational agency;

- 1 --(B) a community-based organization of demonstrated effectiveness;
- 2 --(C) a volunteer literacy organization of demonstrated effectiveness;
- 3 --(D) an institution of higher education;
- 4 --(E) a public or private nonprofit agency;
- 5 --(F) a library;
- 6 --(G) a public housing authority;
- 7 --(H) a nonprofit institution that is not described in any of subparagraphs (A) - (G) of this
- 8 paragraph and has the ability to provide literacy services to adults and families; and
- 9 --(I) a consortium of the agencies, organizations, institutions, libraries, or authorities described in
- 10 any of subparagraphs (A) - (H) of this paragraph.

11
12 **§805.3. Federal and State AEL Funds**

13 New §805.3(a) provides that federal AEL funds may be used for AEL programs for out-of-

14 school individuals who have attained 16 years of age and:

- 15 --(1) function at less than a secondary school completion level;
- 16 --(2) lack a secondary school credential; or
- 17 --(3) are unable to speak, read, or write in English.

18
19 New §805.3(b) provides that state AEL funds are to be used for AEL programs for out-of-school

20 individuals who are beyond compulsory school attendance age and:

- 21 --(1) function at less than a secondary school completion level;
- 22 --(2) lack a secondary school credential; or
- 23 --(3) are unable to speak, read, or write in English.

24
25 New §805.3(c) provides that the proportion of students served who meet the requirements of

26 subsection (a) of this section, but do not meet the requirements of subsection (b) of this section,

27 must not exceed the grant recipient's percentage of federal funds to the total allocation.

28
29 Based on the Commission's extensive review of TEA rules and consideration of input from

30 numerous AEL stakeholders, new §805.3(a) - (c) retains the provisions of TEA rule §89.22,

31 without modification.

32
33 Although the requirements outlining the allowable use of federal and state funds are retained, the

34 Commission supports employment and training awareness, readiness, and transition

35 opportunities for students and understands that often those who seek services with defined career

36 and higher education goals, who have previous work experience, or who may be functioning at

37 higher levels and need very targeted remedial strategies, are most likely to benefit from service

38 alignment. It is the Commission's intent to support program designs and operations to deliver

39 increased secondary education and career and higher education outcomes for students, including

40 individuals who are low income or have minimal literacy skills.

41
42 New §805.3(d) states that the Commission must establish annual performance benchmarks for

43 the use of AEL funds in serving specific student populations, including the population of

44 students receiving other workforce services or coenrolled in postsecondary education or training.

45
46 The Commission's goal is to incrementally increase the proportion of students who exit

1 workforce services work ready or are enrolled or coenrolled in college and career training,
2 including those who are registered for work; receiving workforce services through Texas
3 Workforce Solutions; enrolled or coenrolled in a postsecondary education or training program; or
4 currently working in low-wage, low-skill jobs and desire a career change, promotion, or wage
5 increase. The Commission will use the current program year to determine baseline numbers of
6 students across these metrics.

7
8 The Commission recognizes that the increase in career and higher education outcomes will occur
9 gradually over multiple years through enhanced enrollment and performance criteria, incentives
10 for innovative acceleration, integration and transition models, and related technical assistance
11 and professional development to support expansion. This comprehensive approach will allow
12 continuity of services, while steadily supporting an upward trajectory in the program's overall
13 direction toward increased employment and training, outcome-based performance (consistent
14 with the requirements in SB 307), recent changes in performance standards at the federal level,
15 and local employer demand.

16
17 **Comment:** Four commenters recommended that the Commission enhance data collection
18 and reporting of ABE and literacy services and ensure that performance outcome data be
19 made available to the public on a quarterly and annual basis.

20
21 **Response:** The Commission recognizes the importance of data in program design,
22 development, implementation, management, and evaluation, and thus, strongly supports
23 data collection for all programs it administers. The Commission also recognizes the
24 importance of transparency and openness, and is committed to making AEL performance
25 outcome data available to the public on at least an annual basis.

26
27 **Comment:** Two commenters pointed out that while the Commission's goal of increasing
28 the proportion of students who exit services ready to work or who are enrolled in college
29 or career training is admirable, the unintended consequence may be that programs
30 become more focused on serving higher-functioning AEL students to the detriment of
31 lower-functioning students.

32
33 **Response:** The Commission has stated clearly that, although it supports positive
34 employment and career training outcomes for all, there are certain individuals who have
35 low incomes or minimal literacy skills who will benefit from AEL services. While there
36 may be a correlation between students functioning at higher levels and work or career
37 readiness, data indicates that many students functioning at lower levels are already
38 working in low-wage, low-skill jobs and often enter AEL services to gain the skills or
39 English fluency needed to advance in the workforce. Additionally, while many career
40 and technical training programs are aligned to the abilities of higher-skill students, Texas
41 has developed and implemented models, such as the Texas Higher Education
42 Coordinating Board's Accelerate Texas initiative, that provide students with lower skills
43 or limited English with access to career and technical training.

44
45 The Commission is committed to making long-term investments in the system that
46 develop the capacity of providers to implement such research-based models, including

1 programs that promote concurrent education and workforce training and distance
2 learning, and provide services that result in employment-advancement outcomes for
3 students. The Commission strongly supports the use of innovative career pathway
4 programs that provide opportunities for students at all levels to obtain incremental
5 success, and ultimately to achieve their goals. The Commission believes that the use of a
6 number of innovative strategies, often using interagency collaborations, allows the
7 program to develop increased employment and workforce training outcomes over time,
8 while serving more students, regardless of functional level.

9
10 **Comment:** Three commenters expressed concern that the Commission's goal of
11 increasing the proportion of students who exit services ready to work or who are enrolled
12 in college or career training will have the consequence of fostering an adult education
13 program environment that would be less welcoming to Texas immigrants and individuals
14 who are not legal citizens.

15
16 **Response:** SB 307 requires the Commission to implement the state AEL program and to
17 develop the mechanisms and guidelines for the coordination of AEL services with
18 workforce and career and technical education services, which are designed to ensure
19 employers have a ready and skilled workforce. When implementing AEL services that
20 are coordinated with workforce and career and technical education services, the Agency
21 leverages the services available through our complementary programs.

22
23 Consistent with both SB 307 and federal guidance, the Commission will focus on
24 advancing positive career and postsecondary transition outcomes, building expectations
25 based on current year performance. Texas benefits economically from its large and
26 diversified immigrant population and will continue innovative models that build the
27 educational attainment, English fluency, and technical skills of this population.

28
29 **Comment:** One commenter suggested that the regulations regarding allowable use of
30 federal funds, specifically the population that can be served, set forth in §805.3(a), be
31 brought in line with the rules regarding the population that can be served with state funds.

32
33 **Response:** The Commission clarifies that requirements pertaining to the population that
34 can be served with federal funds are set forth at 20 USC §9202 et seq. The Commission
35 does not have authority to change federal requirements. Under AEFLA, federal funds
36 can be used for services to individuals age 16 and older, but only if those out-of-school
37 individuals are not enrolled or required to be enrolled in secondary school under state law
38 and also meet certain functional criteria. Because the compulsory age of attendance in
39 Texas public schools is 18 years of age, state funds can be used only for individuals age
40 18 and older, unless specifically exempted from compulsory school attendance by Texas
41 Education Code §25.086.

42
43 Thus, the Commission modifies this section to clarify the distinction and fully align the
44 rules with state and federal provisions, including that federal AEL funds may be used for
45 AEL programs for out-of-school individuals who have attained 16 years of age and who
46 are not enrolled or required to be enrolled in secondary school under state law and lack

1 sufficient mastery of basic educational skills to enable the individuals to function
2 effectively in society; do not have a secondary school diploma or its recognized
3 equivalent and have not achieved an equivalent level of education; or are unable to speak,
4 read, or write the English language.

5
6 **Comment:** Eight commenters stressed the importance of family literacy and urged the
7 Commission to ensure alignment with SB 307, which directs the Commission to
8 "provide, within the context of administering adult education and literacy programs,
9 training opportunities for parents regarding how to be the primary teachers for their
10 children and full partners in their children's education."

11
12 **Response:** The Commission agrees that providing AEL services to parents is an
13 important, and required, component of the AEL system. Not only do these services
14 benefit the parents but they benefit the children and the family as a whole. Parents who
15 engage in adult education, and enter and complete career training and higher education,
16 greatly increase their potential earnings and become important role models and guides for
17 their children.

18
19 The Commission envisions great opportunities for AEL to support intergenerational
20 literacy efforts based on implementing the objectives of SB 307 and aligning these efforts
21 with other recently passed legislation designed to increase high school completion and
22 seamless transitions to college and career. For example, House Bill 5 presents an
23 opportunity for supporting intergenerational literacy and career exploration objectives by
24 providing parents who are exploring career pathway options in AEL programs with an
25 opportunity to support their children in selecting career endorsements for high school
26 coursework.

27
28 The Commission believes it is critical for AEL programs to create innovative ways to
29 align curriculum and classroom activities that support career awareness and exploration
30 for the enrichment of AEL students and to support these students in becoming effective
31 guides and teachers for their children. The Commission is focused on identifying
32 opportunities to ensure that all partners in the AEL service delivery system have the
33 tools, professional development, and support necessary to provide services that prepare
34 adults to support their families, careers, and communities.

35
36 **Comment:** Four commenters recommended that the Commission promote access to ABE
37 and literacy services for immigrant youth potentially eligible for legal relief under the
38 Deferred Action for Early Childhood Arrivals (DACA) program.

39
40 **Response:** The Commission strongly believes in the value of local control and flexibility
41 for local programs--including AEL. While targeting immigrant youth who may be
42 eligible to obtain legal relief through DACA may be one mechanism to further strengthen
43 the Texas workforce, the Commission supports an environment where local programs
44 have discretion to establish service options that will most that benefit their local
45 communities.

1
2 **§805.4. Essential Program Components**

3 New §805.4 identifies the following essential program components that AEL grant recipients
4 must ensure are provided by AEL programs:

- 5 --(1) Adult basic education;
6 --(2) Programs for adults of limited English proficiency;
7 --(3) Adult secondary education, including programs leading to a high school equivalency
8 certificate or a high school diploma;
9 --(4) Instructional services to improve student proficiencies necessary to function effectively in
10 adult life, including accessing further education, employment-related training, or employment;
11 --(5) Assessment and guidance services related to paragraphs (1) - (4) of this section; and
12 --(6) Collaboration with multiple partners in the community to expand the services available to
13 adult learners and to prevent duplication of services.

14
15 Based on the Commission's extensive review of TEA rules and consideration of input from
16 numerous AEL stakeholders, new §805.4 retains the provisions of TEA rule §89.23, with
17 modifications to make minor, nonsubstantive, editorial changes.

18
19 **Comment:** Four commenters requested that the Commission include financial literacy
20 training and resource materials in AEL curriculum.

21
22 **Response:** Texas Labor Code §302.0027 requires the Agency and Boards to ensure that
23 all workforce development programs include financial literacy training, and the
24 Commission has emphasized the importance of this need to Boards in several directives.
25 The Commission recognizes the value of financial literacy training and resources for
26 AEL students, as well as for all individuals served through the Texas workforce system.
27 Boards and local community colleges provide financial literacy training for the customers
28 they serve. The Commission's intent is for grantees to coordinate the provision of
29 financial literacy services with other entities in the workforce area.

30
31 **§805.5. Diploma Requirements**

32 New §805.5 identifies that the standards for the awarding of diplomas to adults must be those
33 established under 19 TAC, Chapter 74, Subchapter A (relating to Curriculum Requirements)
34 with the following exceptions:

- 35 --(1) There shall be no limit to the number of secondary credits adults may earn by
36 demonstration of competence.
37 --(2) Adults may earn the required physical education credits by one or more of the following:
38 --(A) Satisfactory completion of approved secondary physical education courses; or
39 --(B) Substitution of state-approved secondary elective courses.
40 --(3) Adults must meet the requirements for successful performance on a secondary-level test
41 designated by the commissioner of education.

42
43 Based on the Commission's extensive review of TEA rules and consideration of input from
44 numerous AEL stakeholders, new §805.5 retains the provisions of TEA rule §89.24, without
45 modification.

1 **Comment:** One commenter requested clarification regarding the procedures in place for
2 awarding high school diplomas.

3
4 **Response:** The procedures for awarding of diplomas to high school adults remain
5 unchanged. With the exceptions set forth in §805.3, the procedures continue to follow
6 TEA rules at 19 TAC, Chapter 74, Subchapter A.
7

8 **SUBCHAPTER B. STAFF QUALIFICATIONS**

9 **The Commission adopts new Subchapter B, Staff Qualifications, as follows:**

10 **§805.21. Staff Qualifications and Training**

11 New §805.21 sets forth the following provisions regarding staff qualifications and training for all
12 AEL staff hired after July 1, 2013, excluding clerical and janitorial staff:

13 --(1) All staff must receive at least 12 clock hours of professional development annually.

14 --(2) All staff new to AEL and assigned assessment and instructional duties must receive six
15 clock hours of in-service professional development before they begin work in assessment and
16 instructional activities, in addition to the annual professional development requirements set forth
17 in paragraph (1) of this section.

18 --(3) Aides must have at least a high school diploma or high school equivalency certificate.

19 --(4) Directors, teachers, counselors, and supervisors shall possess at least a bachelor's degree.

20 --(5) Directors, teachers, counselors, and supervisors without valid Texas teacher certification
21 shall attend 12 clock hours of in-service professional development annually in addition to that
22 specified in paragraph (1) of this section until they have completed either six clock hours of AEL
23 college credit or attained two years of AEL experience.

24 --(6) The requirements for in-service professional development may be reduced by local
25 programs in individual cases where exceptional circumstances prevent employees from
26 completing the required hours of in-service professional development. Documentation justifying
27 these circumstances must be maintained. Requests for exemption from staff qualification
28 requirements in individual cases may be submitted to the Commission for approval in the
29 application for funding and must include justification and proposed qualifications.

30 --(7) Records of staff qualifications and professional development must be maintained by each
31 fiscal agent and must be available for monitoring.

32 --(8) The requirements in paragraphs (1) - (6) of this section also apply to volunteers who
33 generate student contact time, as defined in §805.2, which is accrued by the AEL program and
34 reported to the Commission for funding purposes.
35

36
37 Based on the Commission's extensive review of TEA rules and consideration of input from
38 numerous AEL stakeholders, new §805.21 retains the provisions of TEA rule §89.25, with
39 modifications.
40

41 Current TEA rule at §89.25(2) requires that staff receive six clock hours of preservice
42 professional development before they can begin work in an adult education program.
43 Historically, the preservice requirement has led to issues and misunderstanding regarding the
44 types of acceptable, compensable pre- and post-hire activities. Concern has been expressed that
45 noncompensated preservice requirements hinder local programs in hiring qualified staff. An
46 exhaustive review of local program preservice requirements indicated that many of the

1 requirements should be considered post-hire activities, and thus staff should be compensated for
2 their time. Thus, new §805.21(2) provides that all staff new to AEL and assigned assessment
3 and instructional duties must receive six clock hours of in-service professional development
4 before they begin work in assessment and instructional activities.

5
6 **§805.22. Staff Service Requirements**

7 New §805.22 provides that teachers and aides must be assigned to instruction, counseling, or
8 assessment for a minimum of 75 percent of the hours for which they are employed. Based on the
9 Commission's extensive review of TEA rules and consideration of input from numerous AEL
10 stakeholders, new §805.22 retains the provisions of TEA rule §89.26, without modification.

11
12 **Comment:** One commenter expressed concern with §805.22, requiring teachers and aides
13 to be assigned to instruction, counseling, or assessment for a minimum of 75 percent of
14 the hours for which they are employed. The commenter stated that although the
15 allowable percentage of time spent on instruction may be appropriate to experienced
16 teachers, teachers with less than two years of experience in adult education need more
17 professional development and training outside of the classroom, exceeding the 25 percent
18 threshold for these activities.

19
20 **Response:** The Commission agrees with the comment and withdraws §805.22 regarding
21 staff service requirements. The Commission concurs that uniform time-allocation
22 requirements related to instructional and non-instructional duties do not give providers
23 the flexibility needed to accommodate the instructional, preparation, professional
24 development, and other responsibilities they are required to participate in, or consider the
25 time constraints of a largely part-time instructional workforce. Removing this
26 requirement allows providers the flexibility to assign duties to instructors in accordance
27 with job descriptions and program demands. While making the change, the Commission
28 underscores its commitment to quality classroom instruction and stresses the importance
29 of maximizing the time that teachers and aides spend in the classroom, where they can
30 positively impact the lives of students by providing AEL services that assist in meeting
31 career and life goals.

32
33 **SUBCHAPTER C. SERVICE DELIVERY STRUCTURE AND ALIGNMENT**

34 **The Commission adopts new Subchapter C, Service Delivery Structure and Alignment, as**
35 **follows:**

36
37 **§805.41. Procurement and Contracting**

38 New §805.41 establishes the structure of the AEL program delivery system as follows:

- 39 --(a) Beginning with Program Year 2014, eligible grant recipients must compete for funding
40 through a statewide procurement process conducted in accordance with federal and state
41 procurement requirements. AEL funding must be allocated as set forth in new §800.68 of
42 this title.
- 43 --(b) Eligible grant recipients must apply directly to the Agency using the request for proposals
44 (RFP) process, and must meet all deadlines, requirements, and guidelines set forth in the
45 RFP.
- 46 --(c) Contracts awarded to AEL grant recipients must be limited to two years, with the option of

1 three one-year renewals, at the Commission's discretion. In considering a renewal, the
2 Commission must take into account performance and other factors.

3 --(1) Renewals for years three, four, and five are not automatic, and are based on meeting or
4 exceeding performance and expenditure benchmarks, or other factors as determined by
5 the Commission.

6 --(2) At the completion of the five-year maximum contract term, the Agency must conduct a
7 new competitive statewide procurement, including those contracts that have been in
8 effect for less than the maximum five-year contract term.

9 --(d) Determinations by the Agency in the statewide procurement process will be based on the
10 indicated ability of the eligible grant recipient to effectively perform all services and
11 activities needed to fully comply with contract performance requirements and all contract
12 terms and conditions, and may be influenced by factors used to determine the allocation of
13 AEL funds or other objective data or criteria.

14
15 SB 307 mandates that the Commission ensure that public school districts, public junior colleges,
16 regional education service centers, nonprofit agencies, and community-based organizations have
17 direct and equitable access to those funds. It is the intent of the Commission that these entities
18 each have direct and equitable access to AEL funding opportunities, as evidenced in the
19 proposed AEL program delivery system, and that the appropriate safeguards are in place to
20 ensure access.

21
22 Both SB 307 and federal law mandate that a competitive procurement process be used to award
23 AEL funds. The last competitive procurement for these funds occurred in 2003. The lack of
24 competitive procurement for 10 years has effectively removed incentives for performance and
25 detrimentally affected equal and equitable access for those looking to become a part of the
26 system. To comply with the competitive procurement process mandated by SB 307 and federal
27 law, the Commission must address these and other issues surrounding competitive procurement,
28 including alignment with the workforce system.

29
30 Beginning with Program Year 2014, eligible grant recipients will be required to compete for
31 funding through a competitive procurement process. Eligible grant recipients must apply
32 directly to the Agency for AEL funding. Eligible grant recipients may compete against other
33 eligible grant recipients for all or a portion of the funds allocated to each workforce area. More
34 than one AEL grant recipient may be awarded in a workforce area. An application may
35 represent an eligible grant recipient, consortium, or multiple consortiums, in order to
36 demonstrate administrative efficiencies and maximization of available funds for services across a
37 workforce area.

38
39 It is the intent of the Commission that preference be given to grant applications that demonstrate:
40 --the ability to expand access to services through the judicious use of distance-learning strategies
41 in urban and rural areas, and for populations where physical access is limited;
42 --the use of research-based models that achieve substantial learning gains in reading, writing,
43 speaking the English language, numeracy, problem solving, and other literacy skills;
44 --the use of research-based models that facilitate and accelerate the transition of students to
45 employment or postsecondary education and training in high-growth, high-demand occupations
46 and career pathway models that lead to employment; and

1 --the capability to leverage community groups in the delivery of services, including volunteer-
2 based literacy providers, libraries, and other organizations providing AEL services.

3
4 Preference will also be given to grant applicants that can demonstrate:

5 --the coordination of service delivery and data sharing with Boards and workforce service
6 providers;

7 --administrative efficiencies, including proposals reflecting less administrative costs than the
8 maximum allowed, and maximization of funds for service delivery in workforce areas where
9 multiple eligible grant recipients are present; and

10 --an ability to comprehensively provide services to an entire workforce area.

11
12 Preference will not necessarily be given to an eligible grant recipient application to serve an
13 entire workforce area, but rather for an approach, regardless of the number of eligible grant
14 recipients, that is the most administratively effective within a workforce area.

15
16 Contracts awarded to AEL grant recipients will be limited to two years, providing enough time to
17 establish programs, but with the option of three one-year renewals at the Commission's
18 discretion, taking into account performance and other factors. Renewals for years three, four,
19 and five are not automatic, and will be based on satisfactory performance on meeting or
20 exceeding performance and expenditure benchmarks, or other factors as determined by the
21 Commission. At the completion of the five-year maximum contract term, the Commission will
22 conduct a new competitive statewide procurement. All contracts, including those that have been
23 in effect for less than the maximum five-year contract term, must be competitively procured
24 during subsequent statewide procurements.

25
26 **Comment:** One commenter requested clarification on the type of Boards that are
27 expected to support AEL grant recipients as referenced in §805.41.

28
29 **Response:** The Commission clarifies that the Boards referenced in §805.41, and
30 throughout this chapter, refer to Local Workforce Development Boards, which partner
31 with the Commission to form the Texas workforce system.

32
33 **Comment:** One commenter requested clarification regarding whether there could be
34 more than one program in a workforce area.

35
36 **Response:** The Commission clarifies that more than one AEL grant recipient in a
37 workforce area may be awarded AEL funds. Eligible grant recipients will apply directly
38 to the Agency for funding, and may compete against other eligible grant recipients for all
39 or a portion of the funds allocated to each workforce area.

40
41 **Comment:** Four commenters pointed out that proposed rules should encourage and
42 reward competitive programming that embeds career, workforce, and career readiness
43 into all levels of ABE and ESL instruction.

44
45 **Response:** The Commission has been vocal about the importance of embedding
46 workforce and career readiness throughout the AEL program using integration and

1 innovative strategies such as career pathways and bridge models, which allow students to
2 reach goals and obtain positive outcomes. The Commission intends to give preference to
3 grant applications that demonstrate an ability to embed workforce and career readiness
4 throughout their AEL programs, in addition to a number of other criteria. Further, the
5 Commission intends to reward local programs that achieve performance benchmarks, as
6 set forth in §800.68 of this title.
7

8 **Comment:** One commenter agreed that adult education will benefit from a grant
9 competition beginning in 2014 and that a five-year funding cycle is appropriate.

10 **Response:** The Commission appreciates the comment.

11
12
13 **Comment:** One commenter asked that the Commission consider the relatively small
14 amount of money available under the EL/Civics set-aside and whether it is efficient or
15 effective to grant these funds under a separate competition in any or all of the workforce
16 areas.
17

18 **Response:** The Commission will allocate the EL/Civics federal funds to workforce areas
19 in Texas on the same basis (and using the same data) as used by ED in allocating the
20 funds to Texas. Based on the comment, the Commission will consider whether including
21 the AEL and EL/Civics funding in one competition is a more effective use of the
22 available funds.
23

24 **§805.42. Program Delivery System**

25 New §805.42 sets forth the requirements for the AEL program delivery system:

- 26 --(a) There shall be a statewide AEL program delivery system that provides AEL services on a
27 coordinated basis within each workforce area.
- 28 --(b) An eligible grant recipient must apply directly to the Agency for AEL funding.
- 29 --(c) Each eligible grant recipient must demonstrate an ability to:
- 30 --(1) plan and develop a service delivery strategy that includes a broad analysis of the
31 educational, economic, and workforce development trends across the entire workforce
32 area to provide eligible AEL students with comprehensive and locally responsive
33 services; and
- 34 --(2) expand, improve, and coordinate delivery of education, career training, workforce
35 development, and support services.
- 36 --(d) Each eligible grant recipient applying for AEL funding on behalf of an AEL consortium
37 must:
- 38 --(1) meet the requirements set forth in subsection (c)(1) - (2) of this section;
- 39 --(2) designate an entity to serve as the AEL lead organization of the consortium; and
- 40 --(3) designate an entity to serve as AEL fiscal agent for the AEL consortium. The AEL
41 fiscal agent is responsible for making and filing all financial reports to the AEL grant
42 recipient that will review all reports and submit to the Agency on behalf of the
43 consortium.
- 44 --(e) An AEL grant application must reflect service delivery strategies for the workforce area.
45 In workforce areas that are heavily populated or have large service regions, the Agency
46 may elect to contract with more than one AEL grant recipient within a workforce area.

- 1 --(f) An AEL grant recipient, awarded AEL funds from the Agency, shall be responsible for
 2 performing all services and activities required to fully comply with contract performance
 3 requirements and all contract terms and conditions. Responsibilities include, but are not
 4 limited to, the following:
- 5 --(1) Communication.
 - 6 --(A) The AEL grant recipient shall serve as the point of contact with the Agency.
 - 7 --(B) For an AEL consortium, on behalf of AEL consortium members, the AEL grant
 8 recipient must:
 - 9 --(i) transmit questions and grant-related needs for AEL consortium members to
 10 the Agency; and
 - 11 --(ii) carry out the programmatic functions of an AEL grant by communicating
 12 regularly with members of the AEL consortium, and by sharing information,
 13 policy or procedural changes, and technical assistance provided by the Agency to
 14 oversee the grant.
 - 15 --(2) Monitoring. The AEL grant recipient must:
 - 16 --(A) monitor programmatic and fiscal progress against goals and project deliverables;
 17 and
 - 18 --(B) timely notify the Agency of problems related to achievement of programmatic
 19 and fiscal goals of the grant in accordance with appropriate systems to receive and
 20 compile outcome measures and fiscal reports.
 - 21 --(3) Technical assistance. The AEL grant recipient must carry out the programmatic and
 22 reporting functions of an AEL grant by providing or requesting technical assistance
 23 for its program, or in an AEL consortium for AEL consortium members, related to the
 24 design, implementation, and internal evaluation of their AEL services or support
 25 services.
 - 26 --(4) Professional development. The AEL grant recipient must plan and coordinate the
 27 provision of necessary professional development opportunities for its program, or in
 28 an AEL consortium to the AEL consortium members.
 - 29 --(5) Reporting. The AEL grant recipient must:
 - 30 --(A) collect and compile all fiscal and programmatic information regarding the
 31 activities, expenses, and performance outputs and outcomes of the AEL grant; and
 - 32 --(B) submit this information to the Agency.
 - 33 --(6) Workforce Area Coverage.
 - 34 --(A) The AEL grant recipient shall ensure that services are provided to the portion of
 35 the workforce area designated in the AEL grant application, whether through in-
 36 person services or distance learning, or a combination of methods.
 - 37 --(B) For an AEL consortium, the AEL grant recipient must ensure that services are
 38 provided to the portion of the workforce area designated for the consortium in the
 39 AEL grant application, whether through in-person services or distance learning, or
 40 a combination of methods.
 - 41 --(i) If a consortium member fails to perform in accordance with the consortium's
 42 coordinated service delivery plan, the AEL grant recipient must provide or
 43 request technical assistance, as appropriate.
 - 44 --(ii) If a consortium member withdraws from a consortium, the AEL grant
 45 recipient must ensure that a letter of intent to withdraw is provided to the
 46 Agency contract manager. The AEL grant recipient must coordinate with

1 remaining consortium members to develop an alternative proposal for service
2 delivery and submit it to the Agency for approval.

3 --(iii) If an AEL lead organization of a consortium withdraws from a consortium
4 or from its role as the lead organization of the consortium, the AEL grant
5 recipient must ensure that a letter of intent to withdraw is provided to the
6 Agency contract manager. The AEL grant recipient must coordinate with
7 remaining consortium members to identify an alternative lead organization of
8 the consortium and submit it to the Agency for approval; and

9 --(iv) If, in a workforce area with multiple consortiums that cover the entire
10 workforce area, one or more consortiums withdraws, the AEL grant recipient
11 shall ensure that a letter of intent to withdraw is provided to the Agency's grant
12 contract manager. The Agency will coordinate with the remaining
13 consortiums to develop an alternative proposal for service delivery for the
14 entire workforce area.

15 --(g) For an AEL consortium, the Agency reserves the right to reevaluate an AEL grant in light
16 of any change in the AEL consortium membership based upon the consortium's continued
17 ability to meet the terms of the original grant award as demonstrated through the
18 alternative proposal. The Agency's reevaluation may include termination of all awards
19 under the AEL consortium if deemed appropriate.

20 --(1) If an AEL consortium or AEL consortium member withdraws, the funds and
21 activities committed to in the application may not be shifted to another AEL
22 consortium, AEL consortium member, or to a new institution without written
23 Agency approval.

24 --(2) The AEL grant recipient must contact the Agency-designated grant contract manager
25 to discuss options for replacement grants within the AEL consortium.

26
27 TEA rule §89.22 mandated a statewide system of adult education cooperatives for the
28 coordinated provision of adult education services. Service delivery areas, while not clearly
29 defined, must be large enough to support required program activities while allowing for the
30 efficient and effective delivery of services. Under the existing model, eligible grant recipients
31 have applied directly to TEA for funding often working in coordination with a
32 consortium/cooperative to reduce duplication of services and minimize excessive costs. Each
33 consortium has been headed by a grant applicant that serves as the lead for the consortium and
34 acts as the fiscal agent. There has been no prohibition against entities that directly provide AEL
35 services from acting as the fiscal agent of the consortium.

36
37 Currently, there is a statewide network of 55 consortium grantees that deliver AEL services and
38 53 grantees, often overlapping, that deliver English Literacy and Civics services. TEA service
39 delivery areas are not consistently aligned with the Commission's workforce areas, independent
40 school districts, education service center regions, or community college districts. As a result,
41 each workforce area may have multiple service providers, potentially creating inefficiencies and
42 difficulties in aligning AEL programs with workforce services, data, and resources, and,
43 ultimately, programmatic employment goals and objectives.

44
45 The Texas workforce system is organized geographically across the state, comprising 28
46 workforce areas with workforce services managed by a network of Boards. Boards are

1 responsible for contracting out most direct services through local contractors that operate largely
2 through Workforce Solutions Offices. Recognizing the importance of program efficiencies and
3 avoiding duplication of services, and that one service delivery model may not work in all parts of
4 the state, the new AEL program delivery system will require that service delivery areas be
5 defined and represented by grant recipients that drive service delivery, but enhancing efficiency
6 and coordination with the Texas workforce system by requiring that service delivery areas be
7 aligned geographically with workforce areas. Thus, AEL funds will be allocated geographically
8 to workforce areas, and eligible grant recipients, as defined in §805.2(8), will apply directly to
9 the Commission for AEL funding.

10
11 The Commission believes that students are best served through a model where partners can provide
12 an array of services. The main function of the grant recipient is to apply and execute AEL funds
13 in a strategic, coordinated, and cost-efficient manner. If the eligible grant recipient is an AEL
14 consortium, it must include an AEL grant recipient, AEL service provider(s), and an AEL fiscal
15 agent. Definitions of AEL grant recipient, AEL service provider, and AEL fiscal agent are set
16 forth in §805.2. Consortium members may serve in one or more of these capacities.
17 Historically, AEL grantees have assumed all of these roles. By defining these functions
18 independently, the Commission intends to provide flexibility and to open access to different
19 organizations to execute roles centered on their individual organizational strengths. For
20 example, a Board may have strong fiscal and monitoring abilities and provide a variety of
21 organizational and workforce development resources, while a regional literacy council may be
22 less established in these areas, but better able to coordinate, direct, and align educational services
23 across a workforce area. Community colleges and local education agencies, each within their
24 specific service areas, would act in their traditional role as service providers. By acting in
25 concert, and leveraging their organizational strengths, these diverse consortium members would
26 be more competitively positioned to effectively and efficiently address the needs of regions
27 larger than many grant recipients historically have been able to address, but without forcing
28 organizations to operate outside their areas of strength or designated service areas. To
29 complement and augment services to address the varied needs of adult learners, consortiums may
30 include other educational and human service agencies, community-based organizations, libraries,
31 and volunteer-based literacy providers that agree to collaborate for the provision and support of
32 AEL services. These groups would combine resources and services to comprehensively serve
33 and support those eligible to receive AEL services.

34
35 At a minimum, Boards are expected to support AEL grant recipients with strategic and program
36 design guidance through analysis of employment statistics and local labor market information,
37 regional economic development, and industry or occupational demand studies; identification of
38 targeted high-growth or emerging industries; and prioritization or targeting of high-growth, high-
39 demand occupations for which Boards direct their training resources. Boards may also support
40 direct services for eligible individuals by aligning the education, training, and employment
41 services and support services provided by their workforce service providers with AEL service
42 providers such as enrollment or coenrollment in technical training, related support services, on-
43 the-job training, and employment guidance.

44
45 The intent of the Commission is to establish a statewide system of AEL grant recipients aligned
46 and coordinated with the workforce system that provide AEL services on a coordinated basis

1 within each workforce area. Each AEL grant recipient must plan and develop a service delivery
2 strategy that includes a broad analysis of the educational, economic, and workforce development
3 trends across the entire workforce area to provide eligible AEL students with comprehensive and
4 locally responsive services. AEL grant recipients must also expand, improve, and coordinate
5 delivery of education, career training, workforce development, and support services to support
6 both program performance and greater efficiencies.

7
8 An AEL grant recipient must perform all services and activities required to fully comply with the
9 Agency's contract performance requirements and all contract terms and conditions. An AEL
10 grant recipient's responsibilities include, but are not limited to, communication, monitoring,
11 technical assistance, professional development, reporting, and ensuring workforce area coverage,
12 as set forth in §805.42(d).

13
14 It is also the Commission's intent that if the AEL grant recipient is an AEL consortium, it must
15 designate an entity to serve as the AEL lead organization of the consortium and designate an
16 entity to serve as AEL fiscal agent for the AEL consortium.

17
18 The AEL fiscal agent is responsible for making and filing all financial reports with the AEL
19 grant recipient that will review all reports and submit to the Agency on behalf of the consortium.

20
21 **Comment:** One commenter recommended that AEL programs be encouraged to partner
22 with other institutions and agencies that provide further education, employment-related
23 training, and opportunities for employment.

24
25 **Response:** The Commission reiterates its intent that AEL programs work closely with
26 workforce partners, including Boards and Workforce Solutions Offices across the state,
27 and community colleges, AEL providers, independent school districts, economic
28 development groups, community and volunteer-based literacy providers, and other state
29 agencies to help meet the employment, education, and training needs of students.
30 Collaboration and coordination with these partners play a critical role in the success of
31 AEL programs, as well as the Texas workforce system.

32
33 **Comment:** One commenter suggested that the Commission consider expanding its vision
34 for adult education programs to embrace service delivery models that "expand, improve,
35 and coordinate delivery of education, career training, workforce development and support
36 services" to include the coordination and delivery of entrepreneurship training and small
37 business development.

38
39 **Response:** The Commission and Boards, in partnership with a number of state and local
40 organizations, provide access to information and resources for individuals starting or
41 expanding their businesses, and directly administer programs that support the needs of
42 growing and expanding small businesses. Individuals who are served through AEL
43 programs will have access to information and resources to assist with business creation or
44 expansion.

1 **Comment:** One commenter requested that the Commission strengthen the AEL system
2 by building capacity for community and volunteer-based literacy providers and
3 incentivizing their inclusion in regional consortiums.
4

5 **Response:** As stated in the preamble discussion of §805.1 and §805.41, the Commission
6 recognizes the importance of building capacity for community and volunteer-based
7 literacy providers to serve AEL students. Community and volunteer-based literacy
8 providers may serve as AEL service providers and AEL grant recipients as specified in
9 20 USC §9202 and Texas Labor Code §315.003. The Commission recognizes the value
10 these entities offer to the community's advancement, and has provided that preference be
11 given to grant applications that demonstrate the capacity to leverage community groups
12 in the delivery of services, including volunteer-based literacy providers, libraries, and
13 other organizations providing AEL services.
14

15 **Comment:** Four commenters expressed support for the proposed emphasis on analyzing
16 workforce needs within each region, specifically the guidance given to "expand, improve,
17 and coordinate delivery of education, career training, workforce development, and
18 support services to support both program performance and greater efficiencies." The
19 commenters also recommended revising this section to ensure that support services are
20 clearly defined to incorporate research-based integrated service delivery systems.
21

22 **Response:** The Commission intends to expand upon the delivery of integrated AEL and
23 vocational training models, such as the Accelerate Texas initiative administered by the
24 Texas Higher Education Coordinating Board. Critical to the success of such programs is
25 the identification and provision of support services. The continued enhancement of AEL
26 providers' partnerships with Boards, community colleges, community-based and faith-
27 based organizations, and other local organizations ensures that AEL students have the
28 infrastructure and support services to gain necessary basic skills and successfully
29 transition to productive career and postsecondary pathways.
30

31 **§805.43. Advisory Committees**

32 New §805.43 sets forth the criteria regarding a statewide AEL advisory committee.

33 --Statewide Advisory Committee--The Commission shall establish a statewide AEL advisory
34 committee, composed of not more than nine members appointed by the Commission.

35 --(1) Committee members must:

36 --(A) have expertise in AEL and may include adult educators, providers, advocates,
37 current or former AEL program students, and leaders in the nonprofit community
38 engaged in literacy promotion efforts;

39 --(B) include at least one representative of the business community and at least one
40 representative of a Board; and

41 --(C) serve for staggered two-year terms and be limited to one term.

42 --(2) Membership shall be reviewed when a member's employment changes to determine
43 whether the individual continues to meet the requirements for membership.

44 --(3) The committee shall meet at least quarterly and report to the Commission on an
45 annual basis.
46

1 SB 307 mandates the establishment of a statewide AEL committee. The statute requires that the
2 committee must meet at least quarterly, and advise the Agency annually on a number of issues
3 pertaining to the AEL community. These issues include the development of policies and
4 program priorities that support the development of an educated and skilled workforce in Texas,
5 statewide curriculum guidelines and standards for AEL services that ensure a balance of
6 education and workplace skill development, a statewide strategy for improving student
7 transitions to postsecondary education and career and technical education training, and a
8 centralized system for collecting and tracking comprehensive data on performance outcomes.
9

10 Consistent with statutory requirements, the committee must be composed of no more than nine
11 members appointed by the Commission, and members must have expertise in AEL; may include
12 adult educators, providers, advocates, current or former AEL program students, and leaders in
13 the nonprofit community engaged in literacy promotion efforts; and must include at least one
14 representative of the business community and at least one representative of a Board.
15

16 To support the statewide advisory committee, the Agency will plan, organize, and staff the
17 meetings of the advisory committee. Members will be appointed for staggered two-year terms,
18 with initial terms being two years or three years based on random selection by the members, with
19 membership limited to one term. Continued membership will be reviewed when a member no
20 longer serves in the same employment capacity as when appointed.
21

22 Current TEA rule §89.28 provides a basis for the use of local advisory committees. There are
23 currently a number of local advisory committees in place, linked in large part with the existing
24 AEL cooperatives. Although not mandated in rule, the Commission recognizes the importance of
25 local communities using local advisory committees or other mechanisms to bring a broad
26 spectrum of community representatives together locally to ensure that the resources available to
27 support AEL efforts are fully integrated with other partner services. The Commission expects
28 that workforce areas will establish methods for ensuring that Boards and AEL grant recipients
29 regularly communicate and plan for the delivery of services to their common customers.
30

31 **Comment:** One commenter requested clarification on whether or not AEL programs will
32 have access to the statewide advisory committee to voice issues or concerns.
33

34 **Response:** The Commission notes that the purpose of the advisory committee is to advise
35 the Commission on program and policy priorities. The advisory committee's first
36 meeting is scheduled for January 2014, where the methods it will use to advise the
37 Commission will be discussed. Organizations are urged to communicate directly with the
38 Agency to identify areas that would benefit from technical assistance, whether to
39 individual providers or more broadly. As the Commission continues to develop,
40 administer, and support a comprehensive AEL program, it will continue to pursue
41 opportunities for collaboration and engagement with all partners in the AEL community.
42

43 **Comment:** Four commenters requested that the statewide advisory committee select from
44 among its members a presiding officer, pursuant to Texas Government Code, Chapter
45 2110, and that the rules pertaining to the advisory committee include specific references

1 to SB 307's intent for the committee to advise the Commission on program and policy
2 priorities.

3
4 **Response:** The Commission agrees and modifies the rule. The Commission notes that
5 Texas Government Code §2110.003 indicates that an advisory committee must select a
6 presiding officer from among its members. The rule is modified to indicate that the AEL
7 Advisory Committee must select a presiding officer from among its members who must
8 preside over the committee.

9
10 Further, §2110.005 requires a state agency that establishes an advisory committee to state
11 by rule the purpose and tasks of the committee and describe the manner in which the
12 committee will report to the agency. SB 307 added Texas Labor Code §315.005(c),
13 which lists the purposes of the advisory committee and indicates that the committee must
14 report to the Commission at least annually. The Commission incorporates these
15 provisions in rule to clarify that the purpose and tasks of the advisory committee are to
16 advise the Commission on the following:

17 (A) The development of:

18 (i) policies and program priorities that support the development of an educated and
19 skilled workforce in the state;

20 (ii) statewide curriculum guidelines and standards for AEL services that ensure a
21 balance of education and workplace skills development;

22 (iii) a statewide strategy for improving student transitions to postsecondary education
23 and career and technical education training; and

24 (iv) a centralized system for collecting and tracking comprehensive data on AEL
25 program performance outcomes;

26 (B) the exploration of potential partnerships with entities in the nonprofit community
27 engaged in literacy-promotion efforts, entities in the business community, and other
28 appropriate entities to improve statewide literacy programs; and

29 (C) any other issue the Commission considers appropriate.

30
31 In addition, the Commission modifies §805.43(3) to state that the advisory committee
32 must submit a written report to the Commission, as required by SB 307.

33
34 **§805.44. Match Requirements**

35 New §805.44 sets forth the requirements for match requirements, as follows:

36 --(a) AEL grant recipients must provide and document any cash or in-kind match. The match
37 must be met using non-federal (i.e., local or state) sources.

38 --(b) The cash or in-kind match may be obtained from any state or local source that is fairly
39 evaluated, excluding any sources of federal funds.

40 --(c) The match may include allowable costs, including the following:

41 --(1) goods and services;

42 --(2) fair market value of third-party goods and services donated by volunteers and
43 employees or other organizations; and

44 --(3) supplies, equipment, and building space not owned by the fiscal agent.

45 --(d) The AEL grant recipient is required to maintain auditable records for all expenditures
46 relating to the cash or in-kind match the same as for the funds granted through an approved

1 application.

2 --(e) If public funds, other than state and federal adult education funds, are used in the AEL
3 instructional program, the program may claim a proportionate share of the student contact time
4 as the cash or in-kind match.

5
6 Based on the Commission's extensive review of TEA rules and consideration of input from
7 numerous AEL stakeholders, new §805.44 retains the provisions of TEA rule §89.32, without
8 modification.

9
10 **§805.45. Tuition and Fees**

11 New §805.45 provides that tuition and fees must not be charged unless the entity charging them
12 is statutorily authorized to do so. Funds generated by tuition and fees must be used for the AEL
13 instructional programs.

14
15 Based on the Commission's extensive review of TEA rules and consideration of input from
16 numerous AEL stakeholders, this section retains the provisions of TEA rule §89.33, without
17 modification.

18
19 **Comment:** One commenter requested clarification regarding whether or not AEL
20 programs will be allowed to charge tuition and fees to students.

21
22 **Response:** The Commission clarifies, as set forth in §805.45, that tuition and fees must
23 not be charged unless the entity charging them is statutorily authorized to do so. If
24 statutorily authorized, an entity must use funds generated by tuition and fees for AEL
25 instructional programs.

26
27 **SUBCHAPTER D. OTHER PROVISIONS**

28 **The Commission adopts new Subchapter D, Other Provisions, as follows:**

29
30 **§805.61. Staff Development and Special Projects**

31 New §805.61 provides that from the federal funds set aside for state administration, special
32 projects, staff development, and leadership, a portion of funds shall be used to provide training
33 and professional development to organizations that are not currently receiving grants but are
34 providing literacy services.

35
36 Based on the Commission's extensive review of TEA rules and consideration of input from
37 numerous AEL stakeholders, new §805.61 retains the provisions of TEA rule §89.34(b), without
38 modification.

39
40 **§805.62. Evaluation of Programs**

41 New §805.62 sets forth that the Commission shall evaluate AEL programs based on the
42 indicators of program quality for adult education. Based on the Commission's extensive review
43 of TEA rules and consideration of input from numerous AEL stakeholders, new §805.62 retains
44 the provisions of TEA rule §89.34(c), with modifications to make minor, nonsubstantive,
45 editorial changes.

1 **Comment:** One commenter requested clarification regarding whether or not AEL
2 programs will be allowed to charge tuition and fees to students.

3
4 **Response:** The Commission clarifies, as set forth in §805.45, that tuition and fees must
5 not be charged unless the entity charging them is statutorily authorized to do so. If
6 statutorily authorized, an entity must use funds generated by tuition and fees for AEL
7 instructional programs.
8
9

10 **COMMENTS WERE RECEIVED FROM:**

11 Amy Beneski, Associate Executive Director, Texas Association of School Administrators
12 Carole Belver, Executive Director of Community Action Inc. of Central Texas
13 Kay Brooks, Grant Project Manager for GED & ESL Program, Brazosport College
14 Mary Alice Carlson, Community Action, Inc.
15 Bret Champion, Superintendent, Leander ISD
16 Lori Donley, Executive Director of Literacy Texas
17 Leslie Helmcamp, Policy Analyst for the Center for Public Priorities
18 Selsa Lerma, Odessa College
19 Dean Ransdell, Director of Adult Education, Texarkana ISD
20 Lee Rector, Director of the Texas Workforce Investment Council
21 Kendra Shaffer, Executive Director of K-12 programs, Leander ISD
22 Mike Temple, Director of the Gulf Coast Workforce Development Board
23 Kimberly B. Vinton, Coordinator III of the Region 20 Adult Education Service Center
24 Barbara Yoder, Adult Education, Cleburne ISD

25
26 The Agency hereby certifies that the adoption has been reviewed by legal counsel and found to
27 be within the Agency's legal authority to adopt.
28

29 The new rules are adopted under Texas Labor Code §301.0015 and §302.002(d), which provide
30 the Texas Workforce Commission with the authority to adopt, amend, or repeal such rules as it
31 deems necessary for the effective administration of Agency services and activities.
32

33 The new rules affect Title 4, Texas Labor Code, particularly Chapters 301 and 302.

1
2 **CHAPTER 805. ADULT EDUCATION AND LITERACY**

3
4 **SUBCHAPTER A. GENERAL PROVISIONS**

5
6 **§805.1. Purpose.**

- 7
8 (a) The rules contained in this chapter may be cited as the Adult Education and Literacy
9 (AEL) rules.
10
11 (b) The purpose of the AEL programs is to provide adults with sufficient basic education
12 that enables them to effectively:
13
14 (1) acquire the basic educational skills necessary for literate functioning;
15
16 (2) participate in job training and retraining programs;
17
18 (3) obtain and retain employment; and
19
20 (4) continue their education to at least the level of completion of secondary school.
21

22 **§805.2. Definitions.**

23
24 The following words and terms, when used in this chapter, shall have the following
25 meanings, unless the context clearly indicates otherwise.
26

- 27 (1) Adult education--Basic and secondary instruction and services for adults.
28
29 (A) Adult basic education (ABE)--Instruction in reading, writing, and
30 speaking and comprehending English, and solving quantitative problems,
31 including functional context, designed for adults who:
32
33 (i) have minimal competence in reading, writing, and solving
34 quantitative problems;
35
36 (ii) are not sufficiently competent to speak, read, or write the English
37 language; or
38
39 (iii) are not sufficiently competent to meet the requirements of adult life
40 in the United States, including employment commensurate with the
41 adult's real ability.
42
43 (B) Adult secondary education (ASE)--Comprehensive secondary instruction
44 below the college credit level in reading, writing and literature,
45 mathematics, science, and social studies, including functional context, and
46 instruction for adults who do not have a high school diploma or its
47 equivalent.

1
2 (C) English literacy education (EL)--Instruction designed to help adults with
3 limited English proficiency achieve competence in the English language.
4

5 (2) AEL consortium--A partnership of educational, workforce development, social
6 service entities, and other public and private organizations that agree to
7 partner, collaborate, plan, and apply for funding to provide AEL and related
8 support services. Consortium members shall include an AEL grant recipient,
9 AEL fiscal agent, an AEL lead organization of a consortium, and AEL service
10 provider(s). Consortium members may serve in one or more of the functions
11 in accordance with state statutes and Commission rules.
12

13 (3) AEL fiscal agent--An entity that is assigned financial management duties as
14 outlined in an Agency-AEL contract or is assigned this function as a member
15 of an AEL consortium.
16

17 (4) AEL grant recipient--An eligible grant recipient within a local workforce
18 development area (workforce area), as defined in §800.2(11) of this title, that is
19 awarded AEL funds by the Agency. The AEL grant recipient also may act as
20 an AEL lead organization of a consortium, AEL fiscal agent, or AEL service
21 provider as designated in an agreement with an AEL consortium.
22

23 (5) AEL lead organization of a consortium--An organization designated as the
24 AEL consortium manager in a written agreement between AEL consortium
25 members. The AEL lead organization of a consortium is responsible for
26 planning and leadership responsibilities as outlined in the written agreement
27 and also may serve as an AEL grant recipient, AEL fiscal agent, or AEL
28 service provider. If a consortium does not identify the lead organization of a
29 consortium through a written agreement, the AEL grant recipient will be
30 presumed to assume the responsibility of the lead organization of the
31 consortium.
32

33 (6) AEL service provider--An entity that is eligible to provide AEL services as
34 specified in 20 USC §9202 and Texas Labor Code §315.003.
35

36 (7) Contact time--The cumulative sum of minutes during which an eligible adult
37 student receives instructional, counseling, or assessment services by a staff
38 member supported by federal and state AEL funds as documented by local
39 attendance and reporting records.
40

41 (A) Student contact time generated by volunteers may be accrued by the AEL
42 program when volunteer services are verifiable by attendance and
43 reporting records and volunteers meet requirements under §805.21 of this
44 title (relating to Staff Qualifications and Training).
45

46 (B) A student contact hour is 60 minutes.

- 1
2 (8) Eligible grant recipient--An entity, as specified in state and federal law, that is
3 eligible to receive AEL program funding. Eligible grant recipients include:
4
5 (A) a local educational agency;
6
7 (B) a community-based organization of demonstrated effectiveness;
8
9 (C) a volunteer literacy organization of demonstrated effectiveness;
10
11 (D) an institution of higher education;
12
13 (E) a public or private nonprofit agency;
14
15 (F) a library;
16
17 (G) a public housing authority;
18
19 (H) a nonprofit institution that is not described in any of subparagraphs (A) -
20 (G) of this paragraph and has the ability to provide literacy services to
21 adults and families; and
22
23 (I) a consortium of the agencies, organizations, institutions, libraries, or
24 authorities described in any of subparagraphs (A) - (H) of this paragraph.
25

26 **§805.3. Federal and State AEL Funds.**
27

- 28 (a) Federal AEL funds may be used for AEL programs for out-of-school individuals
29 who have attained 16 years of age and who are not enrolled or required to be
30 enrolled in secondary school under state law and:
31
32 (1) lack sufficient mastery of basic educational skills to enable the individuals to
33 function effectively in society;
34
35 (2) do not have a secondary school diploma or its recognized equivalent, and have
36 not achieved an equivalent level of education; or
37
38 (3) are unable to speak, read, or write the English language.
39
40 (b) State AEL funds are to be used for AEL programs for out-of-school individuals who
41 have attained 18 years of age unless specifically exempted from compulsory school
42 attendance by Texas Education Code §25.086 and:
43
44 (1) lack sufficient mastery of basic educational skills to enable the individuals to
45 function effectively in society;
46

1 (2) do not have a secondary school diploma or its recognized equivalent, and have
2 not achieved an equivalent level of education; or

3
4 (3) are unable to speak, read, or write the English language.

5
6 (c) The proportion of students served who meet the requirements of subsection (a) of
7 this section, but do not meet the requirements of subsection (b) of this section, shall
8 not exceed the grant recipient's percentage of federal funds to the total allocation.

9
10 (d) The Commission shall establish annual performance benchmarks for the use of AEL
11 funds in serving specific student populations, including the population of students
12 receiving other workforce services or coenrolled in postsecondary education or
13 training.

14
15 **§805.4. Essential Program Components.**

16
17 An AEL grant recipient shall ensure that AEL programs provide the following essential
18 program components:

19
20 (1) Adult basic education;

21
22 (2) programs for adults of limited English proficiency;

23
24 (3) adult secondary education, including programs leading to a high school
25 equivalency certificate or a high school diploma;

26
27 (4) instructional services to improve student proficiencies necessary to function
28 effectively in adult life, including accessing further education, employment-
29 related training, or employment;

30
31 (5) assessment and guidance services related to paragraphs (1) - (4) of this section;
32 and

33
34 (6) collaboration with multiple partners in the community to expand the services
35 available to adult learners and to prevent duplication of services.

36
37 **§805.5. Diploma Requirements.**

38
39 The standards for the awarding of diplomas to adults shall be those established under 19
40 Texas Administrative Code, Chapter 74, Subchapter A (relating to Curriculum
41 Requirements) with the following exceptions.

42
43 (1) There shall be no limit to the number of secondary credits adults may earn by
44 demonstration of competence.

45
46 (2) Adults may earn the required physical education credits by one or more of the

1 following:

2
3 (A) Satisfactory completion of approved secondary physical education
4 courses; or

5
6 (B) Substitution of state-approved secondary elective courses.
7

8 (3) Adults shall meet the requirements for successful performance on a secondary-
9 level test designated by the commissioner of education.

10
11 **SUBCHAPTER B. STAFF QUALIFICATIONS**

12
13 **§805.21. Staff Qualifications and Training.**

14
15 The requirements of this section shall apply to all AEL staff hired after July 1, 2013,
16 excluding clerical and janitorial staff.

17
18 (1) All staff shall receive at least 12 clock hours of professional development
19 annually.

20
21 (2) All staff new to AEL and assigned assessment and instructional duties shall
22 receive six clock hours of in-service professional development before they
23 begin work in assessment and instructional activities, in addition to the annual
24 professional development requirements set forth in paragraph (1) of this
25 section.

26
27 (3) Aides shall have at least a high school diploma or high school equivalency
28 certificate.

29
30 (4) Directors, teachers, counselors, and supervisors shall possess at least a
31 bachelor's degree.

32
33 (5) Directors, teachers, counselors, and supervisors without valid Texas teacher
34 certification shall attend 12 clock hours of in-service professional development
35 annually, in addition to that specified in paragraph (2) of this section, until they
36 have completed either six clock hours of AEL college credit or attained two
37 years of AEL experience.

38
39 (6) The requirements for in-service professional development may be reduced by
40 local programs in individual cases where exceptional circumstances prevent
41 employees from completing the required hours of in-service professional
42 development. Documentation justifying these circumstances shall be
43 maintained. Requests for exemption from staff qualification requirements in
44 individual cases may be submitted to the Commission for approval in the
45 application for funding and shall include justification and proposed
46 qualifications.

1
2 (7) Records of staff qualifications and professional development shall be
3 maintained by each fiscal agent and shall be available for monitoring.
4

5 (8) The requirements in paragraphs (1) - (6) of this section also apply to volunteers
6 who generate student contact time, as defined in §805.2, which is accrued by
7 the AEL program and reported to the Commission for funding purposes.
8
9

10 **SUBCHAPTER C. SERVICE DELIVERY STRUCTURE AND ALIGNMENT**

11
12 **§805.41. Procurement and Contracting.**
13

14 (a) Beginning with Program Year 2014, eligible grant recipients shall compete for
15 funding through a statewide procurement process conducted in accordance with
16 federal and state procurement requirements. AEL funding shall be allocated as set
17 forth in §800.68 of this title.
18

19 (b) Eligible grant recipients shall apply directly to the Agency using the request for
20 proposals (RFP) process, and shall meet all deadlines, requirements, and guidelines
21 set forth in the RFP.
22

23 (c) Contracts awarded to AEL grant recipients shall be limited to two years, with the
24 option of three one-year renewals, at the Commission's discretion. In considering a
25 renewal, the Commission shall take into account performance and other factors.
26

27 (1) Renewals for years three, four, and five are not automatic, and are based on
28 meeting or exceeding performance and expenditure benchmarks, or other factors
29 as determined by the Commission.
30

31 (2) At the completion of the five-year maximum contract term, the Agency shall
32 conduct a new competitive statewide procurement, including those contracts that
33 have been in effect for less than the maximum five-year contract term.
34

35 (d) Determinations by the Agency in the statewide procurement process will be based on
36 the indicated ability of the eligible grant recipient to effectively perform all services
37 and activities needed to fully comply with contract performance requirements and all
38 contract terms and conditions, and may be influenced by factors used to determine
39 the allocation of AEL funds or other objective data or criteria.
40

41 **§805.42. Program Delivery System.**
42

43 (a) There shall be a statewide AEL program delivery system that provides AEL services
44 on a coordinated basis within each workforce area.
45

46 (b) An eligible grant recipient must apply directly to the Agency for AEL funding.
47

- 1 (c) Each eligible grant recipient must demonstrate an ability to:
2
3 (1) plan and develop a service delivery strategy that includes a broad analysis of
4 the educational, economic, and workforce development trends across the entire
5 workforce area to provide eligible AEL students with comprehensive and
6 locally responsive services; and
7
8 (2) expand, improve, and coordinate delivery of education, career training,
9 workforce development, and support services.
- 10 (d) Each eligible grant recipient applying for AEL funding on behalf of an AEL
11 consortium must:
- 12 (1) meet the requirements set forth in subsection (c)(1) - (2) of this section;
13 (2) designate an entity to serve as the AEL lead organization of the consortium;
14 and
15
16 (3) designate an entity to serve as AEL fiscal agent for the AEL consortium. The
17 AEL fiscal agent is responsible for making and filing all financial reports to the
18 AEL grant recipient that will review all reports and submit to the Agency on
19 behalf of the consortium.
20
- 21 (e) An AEL grant application must reflect service delivery strategies for the workforce
22 area. In workforce areas that are heavily populated or have large service regions, the
23 Agency may elect to contract with more than one AEL grant recipient within a
24 workforce area.
25
- 26 (f) An AEL grant recipient, awarded AEL funds by the Agency, shall be responsible for
27 performing all services and activities required to fully comply with contract
28 performance requirements and all contract terms and conditions. Responsibilities
29 include, but are not limited, to the following:
30
- 31 (1) Communication.
- 32
33 (A) The AEL grant recipient shall serve as the point of contact with the
34 Agency.
35
36 (B) For an AEL consortium, on behalf of AEL consortium members, the AEL
37 grant recipient shall:
38
39 (i) transmit questions and grant-related needs for AEL consortium
40 members to the Agency; and
41
42 (ii) carry out the programmatic functions of an AEL grant by
43 communicating regularly with members of the AEL consortium and
44 by sharing information, policy or procedural changes, and technical
45 assistance provided by the Agency to oversee the grant.

- 1
2 (2) Monitoring. The AEL grant recipient shall:
3
4 (A) monitor programmatic and fiscal progress against goals and project
5 deliverables; and
6
7 (B) timely notify the Agency of problems related to achievement of
8 programmatic and fiscal goals of the grant in accordance with
9 appropriate systems to receive and compile outcome measures and fiscal
10 reports.
11
12 (3) Technical assistance. The AEL grant recipient shall carry out the
13 programmatic and reporting functions of an AEL grant by providing or
14 requesting technical assistance for its program, or in an AEL consortium for
15 AEL consortium members, related to the design, implementation, and internal
16 evaluation of their AEL services or support services.
17
18 (4) Professional development. The AEL grant recipient shall plan and coordinate
19 the provision of necessary professional development opportunities for its
20 program, or in an AEL consortium to the AEL consortium members.
21
22 (5) Reporting. The AEL grant recipient shall:
23
24 (A) collect and compile all fiscal and programmatic information regarding
25 the activities, expenses, and performance outputs and outcomes of the
26 AEL grant; and
27
28 (B) submit this information to the Agency.
29
30 (6) Workforce area coverage.
31
32 (A) The AEL grant recipient shall ensure that services are provided to the
33 portion of the workforce area designated in the AEL grant application,
34 whether through in-person services or distance learning, or a
35 combination of methods.
36
37 (B) For an AEL consortium, the AEL grant recipient shall ensure that
38 services are provided to the portion of the workforce area, as designated
39 for the consortium in the AEL grant application, whether through in-
40 person services or distance learning, or a combination of methods.
41
42 (i) If a consortium member fails to perform in accordance with the AEL
43 consortium's coordinated service delivery plan, the AEL grant
44 recipient shall provide technical assistance, as appropriate;
45
46 (ii) If a consortium member withdraws from a consortium, the AEL

1 grant recipient shall ensure that a letter of intent to withdraw is
2 provided to the Agency's grant contract manager. The AEL grant
3 recipient shall coordinate with remaining consortium members to
4 develop an alternative proposal for service delivery and submit it to
5 the Agency for approval;

6
7 (iii) If an AEL lead organization of a consortium withdraws from a
8 consortium or from its role as the lead organization of the
9 consortium, the AEL grant recipient must ensure that a letter of
10 intent to withdraw is provided to the Agency contract manager. The
11 AEL grant recipient must coordinate with remaining consortium
12 members to identify an alternative lead organization of the
13 consortium and submit it to the Agency for approval; and

14
15 (iv) If, in a workforce area with multiple consortiums that cover the
16 entire workforce area, one or more consortiums withdraws, the AEL
17 grant recipient shall ensure that a letter of intent to withdraw is
18 provided to the Agency's grant contract manager. The Agency will
19 coordinate with the remaining consortiums to develop an alternative
20 proposal for service delivery for the entire workforce area.

21
22 (g) For an AEL consortium, the Agency reserves the right to reevaluate an AEL grant in
23 light of any change in the AEL consortium membership based on the consortium's
24 continued ability to meet the terms of the original grant award as demonstrated
25 through an alternative proposal. The Agency's reevaluation may include termination
26 of all awards under the AEL consortium if deemed appropriate.

27
28 (1) If an AEL consortium or AEL consortium member withdraws, the funds and
29 activities committed to in the application shall not be shifted to another AEL
30 consortium, AEL consortium member, or a new institution without written
31 Agency approval.

32
33 (2) The AEL grant recipient shall contact the Agency's grant contract manager to
34 discuss options for replacement grants within the AEL consortium.

35
36
37 **§805.43. Advisory Committees.**

38
39 Statewide Advisory Committee. The Commission shall establish a statewide AEL
40 advisory committee, composed of no more than nine members appointed by the
41 Commission.

42
43 (1) Committee members shall:

44
45 (A) have AEL expertise and may include adult educators, providers,
46 advocates, current or former AEL students, and leaders in the nonprofit

1 community engaged in literacy promotion efforts;

2
3 (B) include at least one representative of the business community and at least
4 one representative of a Local Workforce Development Board (Board); and

5
6 (C) serve for staggered two-year terms and be limited to one term.
7

8 (2) Membership shall be reviewed when a member's employment changes to
9 determine whether the individual continues to meet the requirements for
10 membership.

11
12 (3) The committee shall meet at least quarterly and submit a written report to the
13 Commission on an annual basis.

14
15 (4) The committee shall select a presiding officer as required by Texas
16 Government Code, Chapter 2110.

17
18 (5) The committee shall advise the Commission on:
19

20 (A) the development of:

21
22 (i) policies and program priorities that support the development of an
23 educated and skilled workforce in the state;

24
25 (ii) statewide curriculum guidelines and standards for AEL services that
26 ensure a balance of education and workplace skills development;
27

28 (iii) a statewide strategy for improving student transitions to
29 postsecondary education and career and technical education
30 training; and
31

32 (iv) a centralized system for collecting and tracking comprehensive data
33 on AEL program performance outcomes;
34

35 (B) the exploration of potential partnerships with entities in the nonprofit
36 community engaged in literacy-promotion efforts, entities in the business
37 community, and other appropriate entities to improve statewide literacy
38 programs; and
39

40 (C) any other issue the Commission considers appropriate.
41

42 **§805.44. Match Requirements.**
43

44 (a) AEL grant recipients shall provide and document any cash or in-kind match. The
45 match shall be met using nonfederal (i.e., local or state) sources.
46

47 (b) The cash or in-kind match may be obtained from any state or local source that is

1 fairly evaluated, excluding any sources of federal funds.

2
3 (c) The match may include allowable costs, including the following:

4
5 (1) Goods and services;

6
7 (2) Fair market value of third-party goods and services donated by volunteers and
8 employees or other organizations; and

9
10 (3) Supplies, equipment, and building space not owned by the AEL fiscal agent.

11
12 (d) The AEL grant recipient shall maintain auditable records for all expenditures relating
13 to the cash or in-kind match, the same as for funds granted through an approved
14 application.

15
16 (e) If public funds are used, other than state and federal AEL funds, in AEL
17 instructional programs, the programs may claim a proportionate share of the student
18 contact time as the cash or in-kind match.

19
20 **§805.45. Tuition and Fees.**

21
22 Tuition and fees shall not be charged unless the entity charging them is statutorily
23 authorized to do so. Funds generated by tuition and fees shall be used for the AEL
24 instructional programs.

25
26 **SUBCHAPTER D. OTHER PROVISIONS**

27
28 **§805.61. Staff Development and Special Projects.**

29
30 From the federal funds set aside for state administration, special projects, staff
31 development, and leadership, a portion of funds shall be used to provide training and
32 professional development to organizations that are not currently receiving grants but are
33 providing literacy services.

34
35 **§805.62. Evaluation of Programs.**

36
37 The Commission shall evaluate AEL programs based on the indicators of program quality
38 for adult education.