

## **CHAPTER 804. JOBS AND EDUCATION FOR TEXANS (JET) GRANT PROGRAM**

**PROPOSED RULES TO BE PUBLISHED IN THE *TEXAS REGISTER*. THIS DOCUMENT WILL HAVE NO SUBSTANTIVE CHANGES BUT IS SUBJECT TO FORMATTING CHANGES AS REQUIRED BY THE OFFICE OF THE SECRETARY OF STATE.**

ON **JUNE 18, 2024**, THE TEXAS WORKFORCE COMMISSION PROPOSED THE RULES BELOW WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS REGISTER*.

Estimated Publication Date of the Proposal in the *Texas Register*: **July 5, 2024**

Estimated End of Comment Period: **August 5, 2024**

The Texas Workforce Commission (TWC) proposes amendments to the following sections of Chapter 804, relating to the Jobs and Education for Texans (JET) Grant Program:

Subchapter A. Definitions, §804.1

Subchapter B. Advisory Board Composition, Meeting Guidelines, §804.12 and §804.13

Subchapter C. Grant Program, §§804.21, 804.22, and 804.24

Subchapter D. Grants to Educational Institutions for Career and Technical Education Programs, §804.41

### **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**

The purpose of the proposed Chapter 804 rule change is to ensure that this chapter aligns with terminology used in Texas Education Code, Chapter 134 and reflects updated program practices.

Texas Government Code §2001.039 requires a state agency to review and consider for re adoption each of its rules every four years. In accordance with the statute, TWC has reviewed Chapter 804, Jobs and Education for Texans (JET) Grant Program, and proposes re adoption of the rules as amended.

### **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS**

(Note: Minor editorial changes are made that do not change the meaning of the rules and, therefore, are not discussed in the Explanation of Individual Provisions.)

#### **SUBCHAPTER A. DEFINITIONS**

TWC proposes the following amendments to Subchapter A:

##### **§804.1. Definitions**

Section 804.1(5) is amended to change "Charter school" to "Open-enrollment charter school" to align with the terminology in Texas Education Code, Chapter 134. The paragraph is moved to retain alphabetical order and affected paragraphs are renumbered accordingly.

#### **SUBCHAPTER B. ADVISORY BOARD COMPOSITION, MEETING GUIDELINES**

TWC proposes the following amendments to Subchapter B:

**§804.12. Meetings Required**

Section 804.12(a) is amended to change "charter school" to "open-enrollment charter school" to align with the terminology in Texas Education Code, Chapter 134.

**§804.13. General Advisory Board Responsibilities**

Section 804.13(1) is amended to change "charter schools" to "open-enrollment charter schools" to align with the terminology in Texas Education Code, Chapter 134.

**SUBCHAPTER C. GRANT PROGRAM**

TWC proposes the following amendments to Subchapter C:

**§804.21. General Statement of Purpose**

Section 804.21 is amended to change "charter schools" to "open-enrollment charter schools" to align with the terminology in Texas Education Code, Chapter 134.

**§804.22. Notice of Grant Availability and Application**

Section 804.22 is amended to change the section name from "Notice of Grant Availability and Application" to "Grant Availability and Application."

Section 804.22 is amended to replace "Notice of Availability" with "request for applications" and remove the sentence, "The notice shall be published in the *Texas Register* and on the Agency's website." These changes more closely align the rule with statute and current program practices.

**§804.24. Reporting Requirements**

Section 804.24 is amended to change "charter schools" to "open-enrollment charter schools" to align with the terminology in Texas Education Code, Chapter 134.

**SUBCHAPTER D. GRANTS TO EDUCATIONAL INSTITUTIONS FOR CAREER AND TECHNICAL EDUCATION PROGRAMS**

TWC proposes the following amendments to Subchapter D:

**§804.41. Grants for Career and Technical Education Programs**

Section 804.41 has been amended to change "charter schools" to "open-enrollment charter schools" to better align with statute.

**PART III. IMPACT STATEMENTS**

Chris Nelson, Chief Financial Officer, has determined that for each year of the first five years the rules will be in effect, the following statements will apply:

There are no additional estimated costs to the state and to local governments expected as a result of enforcing or administering the rules.

There are no estimated cost reductions to the state and to local governments as a result of enforcing or administering the rules.

There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rules.

There are no foreseeable implications relating to costs or revenue of the state or local governments as a result of enforcing or administering the rules.

There are no anticipated economic costs to individuals required to comply with the rules.

There is no anticipated adverse economic impact on small businesses, microbusinesses, or rural communities as a result of enforcing or administering the rules.

Based on the analyses required by Texas Government Code §2001.024, TWC has determined that the requirement to repeal or amend a rule, as required by Texas Government Code §2001.0045, does not apply to this rulemaking.

#### Takings Impact Assessment

Under Texas Government Code §2007.002(5), "taking" means a governmental action that affects private real property, in whole or in part or temporarily or permanently, in a manner that requires the governmental entity to compensate the private real property owner as provided by the Fifth and Fourteenth Amendments to the US Constitution or the Texas Constitution, §17 or §19, Article I, or restricts or limits the owner's right to the property that would otherwise exist in the absence of the governmental action, and is the producing cause of a reduction of at least 25 percent in the market value of the affected private real property, determined by comparing the market value of the property as if the governmental action is not in effect and the market value of the property determined as if the governmental action is in effect. TWC completed a Takings Impact Assessment for the proposed rulemaking action under Texas Government Code, §2007.043. The primary purpose of this proposed rulemaking action, as discussed elsewhere in this preamble, is to ensure that the terminology used in 40 Texas Administrative Code (TAC), Chapter 804, aligns with the terminology used in Texas Education Code, Chapter 134, and reflects updated program practices.

The proposed rulemaking action will not create any additional burden on private real property or affect private real property in a manner that would require compensation to private real property owners under the US Constitution or the Texas Constitution. The proposal also will not affect private real property in a manner that restricts or limits an owner's right to the property that would otherwise exist in the absence of the governmental action. Therefore, the proposed rulemaking will not cause a taking under Texas Government Code, Chapter 2007.

#### Government Growth Impact Statement

TWC has determined that during the first five years the rules will be in effect, they:

- will not create or eliminate a government program;
- will not require the creation or elimination of employee positions;
- will not require an increase or decrease in future legislative appropriations to TWC;
- will not require an increase or decrease in fees paid to TWC;
- will not create a new regulation;
- will not expand, limit, or eliminate an existing regulation;

- will not change the number of individuals subject to the rules; and
- will not positively or adversely affect the state's economy.

#### Economic Impact Statement and Regulatory Flexibility Analysis

TWC has determined that the rules will not have an adverse economic impact on small businesses or rural communities, as the proposed rules place no requirements on small businesses or rural communities.

Mariana Vega, Director, Labor Market Information, has determined that there is not a significant negative impact upon employment conditions in the state as a result of the rules.

Mary York, Director, Workforce Development Division, has determined that for each year of the first five years the rules are in effect, the public benefit anticipated as a result of enforcing the proposed rules will be to add clarity to the program eligibility and processes.

TWC hereby certifies that the proposal has been reviewed by legal counsel and found to be within TWC's legal authority to adopt.

#### **PART IV. COORDINATION ACTIVITIES**

This rulemaking makes clarifying changes to better align the terminology used in 40 TAC Chapter 804 with the terminology used in Texas Education Code, Chapter 134, and reflects updated program practices. The public will have an opportunity to comment on these proposed rules when they are published in the *Texas Register* as set forth below.

#### **PART V. PUBLIC COMMENTS**

Comments on the proposed rules may be submitted to [TWCPolicyComments@twc.texas.gov](mailto:TWCPolicyComments@twc.texas.gov) and must be received no later than August 5, 2024.

#### **PART VI. STATUTORY AUTHORITY**

The rules are proposed under:

- Title 3, Texas Education Code, §134.008, which provides TWC with the specific authority to establish rules for the administration of the JET Grant Program; and
- Texas Labor Code §301.0015(a)(6) and §302.002(d), which provide TWC with the general authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of TWC services and activities.

The proposed rules relate to Title 3, Texas Education Code, particularly Chapter 134.

## CHAPTER 804. JOBS AND EDUCATION FOR TEXANS (JET) GRANT PROGRAM

### SUBCHAPTER A. DEFINITIONS

#### §804.1. Definitions.

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

- (1) Act--Texas Education Code, Chapter 134, Jobs and Education for Texans Grant Program.
- (2) Advisory board--The advisory board of education and workforce stakeholders created pursuant to the Act.
- (3) Career and technical education--Organized educational activities that offer a sequence of courses that:
  - (A) provides individuals with coherent and rigorous content aligned with challenging academic standards and relevant technical knowledge and skills needed to prepare for further education and careers in high-demand occupations or emerging industries;
  - (B) includes competency-based applied learning that contributes to the academic knowledge, problem-solving skills, work attitudes, general employability skills, technical skills, and occupation-specific skills, and knowledge of all aspects of an industry, including entrepreneurship, of an individual; or
  - (C) provides a license, a certificate, or a postsecondary degree.
- (4) Certificate or degree completion--Any grouping of workforce or technical courses in sequential order that, when satisfactorily completed by a student, will entitle the student to a Texas Higher Education Coordinating Board--approved certificate or associate degree from a public technical institute, public junior college, or public state college.
- ~~(5) Charter school--A Texas public school operated by a charter holder under an open enrollment charter granted pursuant to Texas Education Code, §12.101.~~
- (5)(6) Developmental education--Structured courses, tutorials, laboratories, or other proven instructional efforts that successfully prepare students for college level (and therefore work-ready) courses as measured by passing the state-required college entrance exam (or meeting the Texas Success Initiative requirements).

~~(6)(7)~~ Emerging industry--A growing, evolving, or developing industry based on new technological products or concepts.

~~(7)(8)~~ High-demand occupation--A job, profession, skill, or trade for which employers within the state of Texas generally, or within particular regions or cities of the state, have or will have a substantial need. In determining whether there is or will be a substantial need for a particular job, profession, trade, or skill, the Agency may consider occupations identified by the 28 Local Workforce Development Boards (Board-Area Target Occupations Lists) and/or the Agency's labor market projections.

~~(8)(9)~~ JET--The Jobs and Education for Texans Grant Program.

(9) Open-enrollment charter school--A Texas public school operated by a charter holder under an open-enrollment charter granted pursuant to Texas Education Code §12.101.

~~(10) Notice of Availability or NOA--The notice of availability that is published by the Agency pursuant to §804.22 of this title (relating to Notice of Grant Availability and Application).~~

~~(10)(11)~~ Public junior college--Any junior college certified by the Texas Higher Education Coordinating Board in accordance with Texas Education Code, §61.003.

~~(11)(12)~~ Public state college--Lamar State College--Orange, Lamar State College--Port Arthur, or Lamar Institute of Technology, in accordance with Texas Education Code, §61.003.

~~(12)(13)~~ Public technical institute--The Lamar Institute of Technology or the Texas State Technical College System, in accordance with Texas Education Code, §61.003.

~~(13)(14)~~ School district--An independent school district or the Windham School District.

## **SUBCHAPTER B. ADVISORY BOARD COMPOSITION, MEETING GUIDELINES**

### **§804.12. Meetings Required.**

- (a) The advisory board is required to meet at least once each quarter, or as needed, to review received applications and recommend awarding grants under this chapter to public junior colleges, public technical institutes, public state colleges, open-enrollment charter schools, and school districts.
- (b) Meetings shall be subject to the requirements of the Open Meetings Act.

### §804.13. General Advisory Board Responsibilities.

The advisory board shall provide advice and ~~recommendations to the Agency on:~~ recommend

- (1) the manner in which public junior colleges, public technical institutes, public state colleges, open-enrollment charter schools, and school districts apply for JET grants; and
- (2) the JET grants to be awarded by the Agency.

## SUBCHAPTER C. GRANT PROGRAM

### §804.21. General Statement of Purpose.

In accordance with the Act, the Agency established JET, which ~~it administers~~ shall be administered pursuant to the Act and this chapter to award grants from the JET fund for the development of career and technical education programs at public junior colleges, public technical institutes, public state colleges, open-enrollment charter schools, and school districts that meet the requirements of Texas Education Code, §134.006 and §134.007.

### §804.22. ~~Notice of~~ Grant Availability and Application.

(a) From time to time, the Agency may publish a request for applications for ~~Notice of Availability (NOA) of~~ grant funds under this chapter and post a link to the request for applications on the Agency's website. ~~The notice shall be published in the Texas Register and on the Agency's website.~~ In addition to the respective purpose for the ~~each~~ grant program ~~under this chapter~~, the request for applications ~~documents notice~~ may include:

- (1) the total grant funds available for award;
- (2) the minimum and maximum amount of grant funds available for each grant recipient;
- (3) eligibility criteria;
- (4) application requirements;
- (5) grant award and evaluation criteria;
- (6) any grant requirements in addition to those set forth in this chapter;
- (7) the date by which the application must be submitted to the Agency;

- (8) the anticipated date of grant awards; and
  - (9) any other information or instructions necessary and appropriate for awarding the grant as determined by the Agency.
- (b) To be eligible for a grant award, an applicant meeting the eligibility criteria identified in the [request for applications](#) ~~NOA~~ shall submit an application in the form and manner ~~as~~ prescribed by the Agency ~~in NOA~~.
  - (c) The Agency may request additional information at any time prior to [the](#) grant award in order to effectively evaluate any application.

**§804.24. Reporting Requirements.**

A public junior college, public technical institute, public state college, [open-enrollment](#) charter school, or school district receiving a grant under this chapter must comply with all reporting requirements of the contract in the frequency and format determined by the Agency in order to maintain eligibility for grant payments. Failure to comply with the reporting requirements may result in termination of the grant award and the entity being ineligible for future grants under this chapter.

**SUBCHAPTER D. GRANTS TO EDUCATIONAL INSTITUTIONS FOR CAREER AND TECHNICAL EDUCATION PROGRAMS**

**§804.41. Grants for Career and Technical Education Programs.**

- (a) This subchapter is applicable to JET awards to public junior colleges, public technical institutes, public state colleges, [open-enrollment](#) charter schools, and school districts for the development of career and technical education programs that meet the requirements of Texas Education Code, §134.006 and §134.007.
- (b) A grant received under this subchapter may be used only [to](#):
  - (1) ~~to~~ support courses or programs that prepare students for career employment in occupations that are identified by local businesses as being in high demand;
  - (2) ~~to~~ finance the initial costs of career and technical education courses or program development, including the costs of purchasing equipment, and other expenses associated with the development of an appropriate course; and
  - (3) ~~to~~ finance a career and technical education course or program that leads to a license, certificate, or postsecondary degree.
- (c) In awarding a grant under this subchapter, the Agency shall primarily consider the potential economic returns to the state from the development of the career and



technical education course or program. The Agency may also consider whether the course or program:

- (1) is part of a new, emerging industry or high-demand occupation;
  - (2) offers new or expanded dual-credit career and technical educational opportunities in public high schools;
  - (3) offers new career and technical educational opportunities not previously available to students enrolled at any campus in the Windham School District; or
  - (4) is provided in cooperation with other public junior colleges, public technical institutes, or public state colleges across existing service areas.
- (d) A grant recipient shall provide the matching funds as identified in its application.
- (1) Matching funds may be obtained from any source available to the grant recipient, including industry consortia, community or foundation grants, individual contributions, and local governmental agency operating funds.
  - (2) A grant recipient's matching share may consist of one or more of the following contributions:
    - (A) cash;
    - (B) equipment, equipment use, materials, or supplies;
    - (C) personnel or curriculum development cost; and/or
    - (D) administrative costs that are directly attributable to the project.
  - (3) The matching funds must be expended on the same project for which the grant funds are provided and valued in a manner acceptable or as determined by the Agency.