

1 **CHAPTER 837. APPRENTICESHIP TRAINING PROGRAM**

2 **PROPOSED RULES WITH PREAMBLE TO BE SUBMITTED TO THE TEXAS**
3 **REGISTER. THIS DOCUMENT WILL HAVE NO SUBSTANTIVE CHANGES BUT IS**
4 **SUBJECT TO FORMATTING CHANGES AS REQUIRED BY THE TEXAS REGISTER.**

5
6 ON **JANUARY 17, 2018**, THE TEXAS WORKFORCE COMMISSION PROPOSED THE
7 BELOW RULES WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS REGISTER*.

8
9 Estimated Publication Date of the Proposal in the *Texas Register*: **February 2, 2018**
10 Estimated End of Comment Period: **March 5, 2018**

11
12 The Texas Workforce Commission (TWC) proposes amendments to the following sections of
13 Chapter 837, relating to the Apprenticeship Training Program:

- 14 Subchapter A. General Purpose and Definitions, §837.2
- 15 Subchapter B. Funding, §837.22, §837.23, §837.24, §837.26, and §837.27
- 16 Subchapter C. Compliance Monitoring, §837.41

- 17
- 18
- 19 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**
- 20 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS**
- 21 **PART III. IMPACT STATEMENTS**
- 22 **PART IV. COORDINATION ACTIVITIES**

23
24 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**

25 The purpose of the proposed Chapter 837 rule changes is to align Chapter 837 of TWC's rules
26 with the amendments to Chapter 133 of the Texas Education Code (Chapter 133) enacted by
27 House Bill (HB) 2790, 85th Texas Legislature, Regular Session (2017), relating to funding for
28 certain apprenticeship training programs.

29
30 HB 2790 expanded the list of eligible applicants to include sponsors that apply through an
31 apprenticeship committee. Before the enactment of HB 2790, grant funds were appropriated to
32 local education agencies, which acted as fiscal agents for registered apprenticeship training
33 programs. With the passage of HB 2790, a registered apprenticeship training program's
34 apprenticeship committee may now apply for Chapter 133 funding directly, without partnering
35 with a public school district or a state postsecondary institution.

36
37 The changes made to Chapter 133 by HB 2790 directly impact funding distributed pursuant to
38 TWC's Apprenticeship Training Program rules. HB 2790 took effect September 1, 2017. The
39 next funding cycle for Chapter 133 begins in June 2018. TWC intends to adopt the rule revisions
40 necessitated by HB 2790 amendments to Chapter 133 for the next funding cycle.

41
42 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS**

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

1 **SUBCHAPTER A. GENERAL PURPOSE AND DEFINITIONS**

2 TWC proposes the following amendments to Subchapter A:

3
4 **§837.2. Definitions**

5 Section 837.2(3) is amended to clarify that each registered apprenticeship program operates
6 independently, under its own registration number issued by the US Department of Labor's (DOL)
7 Office of Apprenticeship.

8
9 Section 837.2(4) is amended to clarify that apprenticeship training programs may prepare
10 individuals for occupations other than skilled trades and crafts.

11
12 Section 837.2(6) is amended to replace the term "local education agencies" with the term "grant
13 recipients."

14
15 New §837.2(7) adds a definition for "grant recipient" to include the apprenticeship committee
16 and local education agency as eligible applicants. Additionally, the definition explains that grant
17 recipients will be required to comply with TWC monitoring activities as set forth in Chapter 802,
18 Subchapter D, Agency Monitoring Activities.

19
20 New §837.2(8) retains the definition for "local education agency" and is renumbered
21 accordingly.

22
23 **SUBCHAPTER B. FUNDING**

24 TWC proposes the following amendments to Subchapter B:

25
26 **§837.22. Eligible Applicants**

27 Section 837.22(a) and (b) are amended to replace "local education agencies" with "grant
28 recipients."

29
30 Section 837.22(b)(2), no longer applicable, is removed.

31
32 Section 837.22(b)(3) is renumbered as new §837.22(b)(2) and amended to remove
33 "apprenticeship committee" and change "program(s)" to "program."

34
35 New §837.22(c) adds the provision that local education agencies that fund job-related classroom
36 instruction for a registered apprenticeship training program shall contract with the local,
37 independently operated apprenticeship committee.

38
39 New §837.22(d) adds "apprenticeship committees that fund job-related classroom instruction for
40 a registered apprenticeship training program shall contract directly with the Agency."

41
42 **§837.23. Local Workforce Development Board Review**

43 Section 837.23 is amended to replace "local education agency" with "grant recipient."

44
45 **§837.24. Funding Qualifications for Apprenticeship Training Programs**

46 Section 837.24 is amended and is now divided into four new subsections.

1
2 New §837.24(a) sets forth the types of apprenticeship training programs that may qualify for
3 funding by adding new paragraph (1), "conducted by an independently operated apprenticeship
4 committee; or." HB 2790 sets forth that a registered apprenticeship training program's
5 apprenticeship committee may be an eligible recipient for Chapter 133 funding without
6 partnering with a public school district or a state postsecondary institution. Additionally,
7 paragraph (2) retains language from the existing rule regarding apprenticeship training programs
8 sponsored by a local education agency.
9

10 Existing paragraph (2) is amended to add "The apprenticeship training program must," and
11 relettered as new §837.24(b).
12

13 New §837.24(c) adds "Each apprenticeship training program must," and renumbers existing
14 paragraph (3) as new §837.24(c)(1). Additionally, new §837.24(c)(2) adds the requirement that
15 apprenticeship training programs must "adhere to apprenticeship committee procedures for
16 maintaining individual program standards as approved by DOL's Office of Apprenticeship."
17

18 Existing paragraph (4) is amended to add "A funded apprenticeship training program must" and
19 is relettered as new §837.24(d).
20

21 **§837.26. Funding Distribution Process**

22 Sections 837.26(a), (b), and (c) are amended to replace "local education agencies" with "grant
23 recipients."
24

25 **§837.27. Administrative Costs Limitation**

26 Section 837.27 is amended to replace "local education agencies" with "grant recipients".
27

28 **SUBCHAPTER C. COMPLIANCE MONITORING**

29 TWC proposes the following amendments to Subchapter C:
30

31 **§837.41. Funds Management and Accountability**

32 Section 837.41 is amended to replace "local education agencies" with "grant recipients."
33

34 **PART III. IMPACT STATEMENTS**

35 Randy Townsend, Chief Financial Officer, has determined that for each year of the first five
36 years the rules will be in effect, the following statements will apply:
37

38 There are no additional estimated costs to the state and to local governments expected because of
39 enforcing or administering the rules.
40

41 There are no estimated cost reductions to the state and to local governments because of enforcing
42 or administering the rules.
43

44 There are no estimated losses or increases in revenue to the state or to local governments because
45 of enforcing or administering the rules.
46

1 There are no foreseeable implications relating to costs or revenue of the state or local
2 governments because of enforcing or administering the rules.

3
4 There are no anticipated economic costs to persons required to comply with the rules.

5
6 There is no anticipated adverse economic impact on small businesses, microbusinesses, or rural
7 communities as a result of enforcing or administering the rules.

8
9 Based on the analyses required by Texas Government Code §2001.024, TWC has determined
10 that the requirement to repeal or amend a rule, as required by Texas Government Code
11 §2001.0045, does not apply to this rulemaking. Additionally, Texas Education Code §3133.007
12 requires TWC's three-member Commission to adopt rules necessary to implement the provisions
13 in Chapter 133 of the Texas Education Code regarding the apprenticeship training program.
14 Therefore, the exception identified in §2001.0045(c)(9) also applies.

15
16 Government Growth Impact Statements

17 TWC has determined that during the first five years the amendments will be in effect:

- 18 • the proposed amendments will not create or eliminate a government program;
- 19 • implementation of the proposed amendments will not require the creation or elimination of
20 employee positions;
- 21 • implementation of the proposed amendments will not require an increase or decrease in
22 future legislative appropriations to the Agency;
- 23 • the proposed amendments will not require an increase or decrease in fees paid to the Agency;
- 24 • the proposed amendments will not create a new rule;
- 25 • the proposed amendments will not expand, limit, or repeal an existing rule;
- 26 • the proposed amendments will not change the number of individuals subject to the rule; and
- 27 • the proposed amendments will not positively or adversely affect the state's economy. TWC
28 has insufficient information to determine the proposed amendments' effects on the state's
29 economy.

30
31 Economic Impact Statement and Regulatory Flexibility Analysis

32 TWC has determined that the proposed rules will not have an adverse economic impact on small
33 businesses or rural communities, as these proposed rules place no requirements on small
34 businesses or rural communities, including child care providers.

35
36 Doyle Fuchs, Director of Labor Market and Career Information, has determined that there is no
37 significant negative impact upon employment conditions in the state because of the rules.

38
39 Courtney Arbour, Director, Workforce Development Division, has determined that for each year
40 of the first five years the rules are in effect, the public benefit anticipated because of enforcing
41 the proposed rules will be to allow a registered apprenticeship training program's apprenticeship
42 committee to apply for Chapter 133 funding directly which may result in additional
43 apprenticeship training programs funded by TWC, and ultimately more apprentices trained.

44
45 TWC hereby certifies that the proposal has been reviewed by legal counsel and found to be
46 within the TWC's legal authority to adopt.

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PART IV. COORDINATION ACTIVITIES

In the development of these rules for publication and public comment, TWC sought the involvement of Texas' 28 Boards. TWC provided the concept paper regarding these rule amendments to the Boards for consideration and review on October 31, 2017. TWC also conducted a conference call with Board executive directors and Board staff on November 10, 2017, to discuss the concept paper. During the rulemaking process, TWC considered all information gathered to develop rules that provide clear and concise direction to all parties involved.

Comments on the proposed rules may be submitted to TWC Policy Comments, Workforce Policy and Service Delivery, Attn: Workforce Editing, 101 East 15th Street, Room 440T, Austin, Texas 78778; faxed to (512) 475-3577; or e-mailed to TWCPolicyComments@twc.state.tx.us. Comments must be received or postmarked no later than 30 days from the date this proposal is published in the *Texas Register*.

The rules are proposed under Texas Education Code §133.007 which provides TWC with the authority to adopt, amend, or repeal such rules as it deems necessary to implement Chapter 133 of the Texas Education Code

The proposed rules affect Texas Education Code, Chapter 133.

1
2 **CHAPTER 837. APPRENTICESHIP TRAINING PROGRAM**
3

4 **SUBCHAPTER A. GENERAL PURPOSE AND DEFINITIONS**
5

6 **§837.2. Definitions.**
7

8 In addition to the definitions contained in §800.2 of this title, and the definitions
9 contained in Texas Education Code, §133.001 and 29 C.F.R. §29.2 relating to
10 apprenticeship training, the following words and terms when used in this chapter shall
11 have the following meanings, unless the context clearly indicates otherwise.
12

- 13 (1) Administrator's Guide--The Administrator's Guide supplements this chapter by
14 providing all required operational details and procedures for planning and
15 submitting an application for apprenticeship training program funding, as well
16 as the annual timeline for submission. The Administrator's Guide may be
17 accessed on the Agency's [website site](http://www.texasworkforce.org) at www.texasworkforce.org.
18
- 19 (2) Apprentice--A full-time paid worker, at least 16 years of age except where a
20 higher minimum age standard is otherwise fixed by law, who is employed in
21 the private sector, registered with the US Department of [Labor \(DOL\)](#) ~~Labor's~~
22 Office of Apprenticeship, and receives related instruction training to learn a
23 skill in a certified apprenticeable occupation.
24
- 25 (3) Apprenticeship committee--An autonomous local group consisting of members
26 appointed by one or more employers of apprentices, or by one or more
27 bargaining agents representing members of an apprenticeable trade, or by a
28 combination of the two. An apprenticeship committee, [approved by the DOL](#)
29 [Office of Apprenticeship, operates independently as a](#) ~~is~~ designated [sponsor](#) for
30 [an each](#) apprenticeship training program to establish instruction standards and
31 goals for a particular craft or crafts, interview and select applicants, and
32 monitor the program and apprentices as described in Texas Education Code
33 §133.003.
34
- 35 (4) Apprenticeship training program--A training program that provides on-the-job
36 training, preparatory instruction, supplementary instruction, or related
37 instruction in a trade that has been certified as an apprenticeable occupation by
38 the [DOL](#) ~~US Department of Labor,~~ Office of Apprenticeship. As required by
39 Texas Education Code §133.002(c), an apprenticeship training program shall
40 be under the direction of an apprenticeship committee. The program is a
41 structured system of training designed to prepare individuals for occupations,
42 [including but not limited to those](#) in skilled trades and crafts, by combining
43 training under the supervision of an experienced [journey worker](#)
44 ~~journeyworker~~ with job-related classroom instruction.
45

1 (5) Office of Apprenticeship--The ~~DOL US Department of Labor~~, Office of
2 Apprenticeship.

3
4 (6) Contact-hour rate--A method used to distribute apprenticeship training funds to
5 grant recipients ~~local education agencies~~. The total available funds are divided
6 by the statewide total number of contact hours of apprenticeship training
7 instruction classes submitted to the Agency.

8
9 (7) Grant recipient--A recipient of the state-funded Apprenticeship Training
10 Program that is an apprenticeship committee or a local education agency.
11 Grant recipients must cooperate and comply with Agency monitoring
12 activities as required by Chapter 802, Subchapter D, of this title (relating to
13 Agency Monitoring Activities).

14
15 ~~(8)(7)~~ Local education agency--For purposes of Chapter 837, a public school district
16 or state postsecondary institution, under Texas Education Code, Chapter 133,
17 that serves as a sponsor for an apprenticeship training program pursuant to a
18 contract between the local education agency and an apprenticeship committee.

20 SUBCHAPTER B. FUNDING

21 §837.22. Eligible Applicants.

22
23
24 (a) Grant recipients ~~Local education agencies~~ are the entities eligible to apply to the
25 Agency for apprenticeship training funding.

26
27 (b) Approved grant recipients ~~local education agencies~~ shall:

28
29 (1) be the fiscal agents for the funds and are subject to the audit procedures set
30 forth in Texas Education Code §133.005;

31
32 ~~(2) contract with the local apprenticeship committee to fund job-related classroom~~
33 ~~instruction for a registered apprenticeship training program; and~~

34
35 ~~(2)(3)~~ apply for funds for each ~~apprenticeship committee and its~~ apprenticeship
36 training ~~program~~ program(s), specifically for related classroom training,
37 supplementary instruction, or preparatory instruction from only one of the
38 following entities:

39
40 (A) the Commission; or

1
2 (B) the Texas Higher Education Coordinating Board.

3
4 (c) Local education agencies that fund job-related classroom instruction for a
5 registered apprenticeship training program shall contract with the local,
6 independently operated apprenticeship committee.

7
8 (d) Apprenticeship committees that fund job-related classroom instruction for a
9 registered apprenticeship training program shall contract directly with the Agency.

10
11
12 **§837.23. Local Workforce Development Board Review.**

13
14 The grant recipient ~~local education agency~~ shall provide one copy of the application for
15 apprenticeship training program funding to the Local Workforce Development Board
16 (Board) for review and comment and one copy to the Agency. Boards may submit
17 comments to the Agency and the grant recipient ~~local education agency~~ concurrently.

18
19 **§837.24. Funding Qualifications for Apprenticeship Training Programs.**

20
21 (a) To qualify for funding, each apprenticeship training program shall be:

22 (1) conducted by an independently operated apprenticeship committee; or

23 (2)(4) ~~be~~-sponsored by a local education agency pursuant to a contract between the
24 local education agency and an apprenticeship committee.;

25 (b) (2) — The apprenticeship training program must be certified and registered by the
26 US Department of Labor (DOL) Office of Apprenticeship prior to the applicable
27 fiscal year.;

28 (c) Each apprenticeship training program shall:

29 (1)(3) provide the local education agency with a validated copy of its written,
30 national standards as approved by the DOL Office of Apprenticeship (or where
31 national standards do not exist, individual program standards approved by the
32 DOL Office of Apprenticeship); ~~or and~~

33 (2) adhere to apprenticeship committee procedures for maintaining individual
34 program standards as approved by the DOL Office of Apprenticeship.

1 ~~(d)~~(4) A funded apprenticeship training program must comply with Commission rules
2 and Texas Education Code, Chapter 133.

3
4 **§837.26. Funding Distribution Process.**

5
6 (a) Funds are distributed to the eligible grant recipients ~~local education agencies~~ by the
7 Commission in a two-step process consisting of planning estimates and final
8 distributions. Details of the annual distribution process, including the timeline, are
9 set forth in the Administrator's Guide located on the Agency's website ~~Web site~~ at
10 www.texasworkforce.org.

11
12 (b) Planning Estimates.

13
14 (1) Each grant recipient ~~local education agency~~ shall report to the Agency the
15 number of approved class hours, estimated number of registered apprentices,
16 and estimated number of contact hours of job-related instruction classes for the
17 prospective fiscal year. The estimated contact hours are determined by the
18 number of registered apprentices anticipated to enroll in a class, multiplied by
19 the number of approved hours that the class will be conducted during the year.

20
21 (2) The estimated number of contact hours must be submitted by the grant
22 recipient ~~local education agency~~ and received by the Agency on or before the
23 respective due dates as annually prescribed by the Agency.

24
25 (3) The Agency, after determining the preliminary contact-hour rate, shall notify
26 each grant recipient ~~local education agency~~ of its planning estimates for the
27 prospective fiscal year.

28
29 (c) Final Distributions.

30
31 (1) Each grant recipient ~~local education agency~~ shall report to the Agency the
32 number of approved class hours, number of registered apprentices, and number
33 of contact hours of job-related instruction classes for the fiscal year.

34
35 (2) The approved number of contact hours must be submitted by the grant
36 recipient ~~local education agency~~ and received by the Agency on or before the
37 respective due dates as annually prescribed by the Agency.

38
39 (3) The Agency, after determining the final contact-hour rate, shall notify each
40 grant recipient ~~local education agency~~ of its final distribution based on the final
41 contact-hour rate.

42
43 **§837.27. Administrative Costs Limitation.**

44
45 Costs that are allowable, necessary, and reasonably incurred by a grant recipient ~~local~~
46 ~~education agency~~ to properly administer and manage the funds, such as salaries for grant

1 recipient ~~local education agency~~ supervisors and administrative supplies, are considered
2 administrative costs. Administrative costs may not exceed 15 percent of the total contract.
3

4 **SUBCHAPTER C. COMPLIANCE MONITORING**
5

6 **§837.41. Funds Management and Accountability.**
7

8 Grant recipients ~~Local education agencies~~ shall comply with the applicable rules in
9 Chapter 802 of this title, relating to ~~regarding~~ the Integrity of the Texas Workforce
10 System, specifically:
11

- 12 (1) Subchapter D, relating to Agency Monitoring Activities;
- 13
- 14 (2) Subchapter F, relating to Performance and Accountability;
- 15
- 16 (3) Subchapter G, relating to Corrective Actions; and
- 17
- 18 (4) Subchapter H, relating to Remedies.
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