CHAPTER 842. WIOA NONDISCRIMINATION AND EQUAL OPPORTUNITY

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 **AUGUST 11, 2026**, 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*: August 28, 2026
Estimated End of Comment Period: September 28, 2026

The Texas Workforce Commission (TWC) proposes amendments to the following section in Chapter 842, WIOA Nondiscrimination and Equal Opportunity:

Subchapter A. WIOA Nondiscrimination and Equal Opportunity, §842.5

TWC proposes the repeal of the following section in Chapter 842, WIOA Nondiscrimination and Equal Opportunity:

Subchapter A. WIOA Nondiscrimination and Equal Opportunity, §842.7

PART I. PURPOSE, BACKGROUND, AND AUTHORITY

The purpose of the Chapter 842 rule change is to remove affirmative outreach requirements for recipients of Workforce Innovation and Opportunity Act (WIOA) Title I financial assistance (including Local Workforce Development Boards), ensuring alignment with federal regulatory changes.

On June 23, 2026, the US Department of Labor (DOL) issued a final rule rescinding the regulatory affirmative outreach requirements for recipients of financial assistance under WIOA Title I, as implemented under Title 29, Code of Federal Regulations (CFR), §38.40, effective July 24, 2026.

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.)

<u>SUBCHAPTER A. WIOA NONDISCRIMINATION AND EQUAL OPPORTUNITY</u>

TWC proposes the following amendments to Subchapter A:

The chapter is reorganized by removing the Subchapter A heading, as Chapter 842 does not contain any other subchapters, thereby eliminating an unnecessary organizational level.

<u>§842.5. Notice and Communication</u>

Section 842.5(a) is amended to remove 29 CFR §38.40 from the reference to the notice and communication requirements in the CFR.

§842.7. Affirmative Outreach
Section 842.7 is repealed to conform with DOL's rescission of 29 CFR §38.40.

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

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

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

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

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

There is no anticipated adverse economic impact on small businesses, microbusinesses, or rural communities as a result of enforcing or administering the proposed 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 align rules with federal regulatory changes that removed the affirmative outreach requirement for recipients of financial assistance under WIOA Title I.

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.

Jason Stalinsky, Director, Fraud Deterrence and Compliance Monitoring, has determined that for each year of the first five years the proposed rules are in effect, the public benefit anticipated as a result of the proposal will be alignment of TWC nondiscrimination rules with federal regulations and WIOA §188.

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. REQUEST FOR IMPACT INFORMATION
TWC requests, from any person required to comply with the proposed rules or any other interested person, information related to the cost, benefit, or effect of the proposed rules, including any applicable data, research, or analysis. Please submit the requested information to TWCPolicyComments@twc.texas.gov no later than September 28, 2026.

PART V. PUBLIC COMMENTS
Comments on the proposed rules may be submitted to TWCPolicyComments@twc.texas.gov and must be received no later than September 28, 2026.

PART VI. STATUTORY AUTHORITY

The rules are proposed under Texas Labor Code, §301.0015 and §302.002(d), which provide TWC with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of TWC services and activities.

The rules relate to Texas Labor Code, Title 4, particularly Chapters 301 and 302, as well as Texas Government Code, Chapter 2308.

CHAPTER 842. WIOA NONDISCRIMINATION AND EQUAL OPPORTUNITY

~~SUBCHAPTER A. WIOA NONDISCRIMINATION AND EQUAL OPPORTUNITY~~

§842.5. Notice and Communication.

(a) Each recipient shall comply with the notice and communication requirements of 29 CFR §§38.34 - 38.39~~38.40~~.

(b) The notice required by 29 CFR §38.35 shall be made available to each participant and made part of each participant's file. A copy of an acknowledgment of receipt of notice, in a format determined by the State-Level Agency EO Officer and signed by the participant, must be maintained in each participant's file. This information must be communicated in appropriate languages as required by 29 CFR §38.9 and in formats accessible for individuals with disabilities as required in 29 CFR §38.15.

(c) The notice shall be posted prominently, in reasonable numbers and places, in physical locations and on the recipient's website.

(d) Each recipient shall comply with the tagline requirements of 29 CFR §38.38 for recruitment brochures and other materials as described in 29 CFR §38.38.

(e) When communicating vital information to participants, recipients must incorporate a Babel notice into the communication as required by 29 CFR §38.9(g)(3). The notice must indicate in appropriate languages that language assistance is available free of charge.

(f) For information and services accessed electronically, each recipient shall establish a procedure that ensures that the notice requirements of 29 CFR Part 38 are met.

(g) Each Board shall ensure compliance with and dissemination of information regarding the requirements of 29 CFR Part 38 by assuring that training regarding the nondiscrimination and equal opportunity requirements of WIOA is provided to the Board, the operator of the Workforce Solutions Office, other workforce area recipients, and recipients' staffs.

~~**§842.7. Affirmative Outreach.**~~

~~As required in 29 CFR §38.40, recipients shall take appropriate steps to ensure that they are providing equal access to WIOA Title I financially assisted programs and activities. These steps must involve reasonable efforts to include the various groups protected by these regulations, including, but not limited to, different sexes, various racial and ethnic/national origin groups, various religions, individuals with limited English proficiency, individuals with disabilities, and individuals in differing age groups. Such efforts may include, but are not limited to:~~

~~(1) advertising the recipient's programs and/or activities in media, such as newspapers or radio programs, that specifically target various populations;~~

~~(2) sending notices about openings in the recipient's programs and/or activities to schools or community service groups that serve various populations; and~~

~~(3) consulting with appropriate community service groups about ways in which the recipient may improve its outreach and service to various populations.~~