

1 **CHAPTER 800. GENERAL ADMINISTRATION**

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

7  
8 The Texas Workforce Commission (TWC) adopts amendments to the following sections of  
9 Chapter 800, relating to General Administration:

10  
11 Subchapter B. Allocations, §§800.52, 800.71, 800.78, and 800.80

12  
13 The amendments are adopted *without changes* to the proposed text as published in the July 22,  
14 2022, issue of the *Texas Register* (47 TexReg 4282), and, therefore, the adopted rule text will not  
15 be published.

16  
17 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**

18 The purpose of the adopted amendments to Chapter 800 is to provide TWC's three-member  
19 Commission (Commission) flexibility when deobligating Adult Education and Literacy (AEL)  
20 statewide funds and considering an AEL grant recipient's performance when reallocating  
21 deobligated funds.

22  
23 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS**

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

26  
27 **SUBCHAPTER B. ALLOCATIONS**

28 TWC adopts the following amendments to Subchapter B:

29  
30 **§800.52. Definitions.**

31 Section 800.52(5), the definition for "Deobligation" is amended to add §800.78 and §800.79 to  
32 the rule reference.

33  
34 **§800.71. General Deobligation and Reallocation Provisions**

35 Section 800.71(b) is amended to add §§800.78 - 800.80 to the rule reference.

36  
37 **§800.78. Midyear Deobligation of AEL Funds**

38 Section 800.78 is amended to rename the section "Deobligation of AEL Funds."

39  
40 Section 800.78(a) is amended to update the reference to §800.78(d). Section 800.78(d) is deleted  
41 and the reference is updated to §800.80(a), which contains similar language to the language that  
42 was deleted.

43  
44 Section 800.78(a)(1) is amended to revise the time in which TWC may review expenditures for  
45 deobligation from months four to seven, to any month after month four.

1 Section 800.78(d), which provides that amounts deobligated from an AEL grant recipient must  
2 be made available as a first priority to another grant recipient providing AEL services in the  
3 same workforce area, is deleted. The subsequent subsection is relettered accordingly.  
4

5 **§800.80. Reallocation of AEL Funds**

6 Section 800.80 is amended to modify the criteria a grant recipient must meet in order to receive  
7 deobligated funds and revise language related to the reallocation of funds.  
8

9 New §800.80(a)(7) is added to require a grant recipient to be meeting performance for the  
10 program year to receive deobligated funds.  
11

12 Section 800.80(b) is amended to clarify that the Commission must approve any plan to reallocate  
13 deobligated funds. Section 800.80(b) is also amended to add that the Commission may make  
14 those funds available as a first priority to other grant recipients within the same workforce area  
15 meeting the criteria in §800.80(a). Existing language provides that the Commission must approve  
16 an acceptable plan to reallocate funds to a grant recipient within the workforce area; and the new  
17 language provides that grant recipients outside the workforce area may be considered by the  
18 Commission, provided that requirements in §800.80(a) are met. Section 800.80(b) is also  
19 amended to add that if AEL grant recipients outside the workforce area are not able to meet the  
20 criteria in §800.80(a), then TWC staff will present an alternate plan for the Commission's  
21 consideration.  
22

23 TWC hereby certifies that the adoption has been reviewed by legal counsel and found to be  
24 within TWC's legal authority to adopt.  
25

26 **PART III. PUBLIC COMMENTS**

27 The public comment period closed on August 22, 2022. No comments were received.  
28

29 **PART IV. STATUTORY AUTHORITY**

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

33 The adopted rules implement the requirements set out in Workforce Innovation and Opportunity  
34 Act Title II and Texas Labor Code, Chapter 315.  
35

1 **CHAPTER 800. GENERAL ADMINISTRATION**

2  
3 **SUBCHAPTER B. ALLOCATIONS**

4  
5 **§800.52. Definitions.**

6  
7 The following words and terms, when used in this subchapter, shall have the following  
8 meanings, unless the context clearly indicates otherwise:  
9

- 10 (1) Accrued Expenditures--Charges incurred during a given period for goods and  
11 tangible property received and services performed that cause decreases in net  
12 financial resources.
- 13  
14 (2) All-Family Participation Rate--The percentage of all families receiving TANF  
15 benefits that a state must engage in an approved work activity for a specified  
16 number of hours per week as provided by the Personal Responsibility and  
17 Work Opportunity Reconciliation Act of 1996, §407, as amended.
- 18  
19 (3) Contract Closeout Settlement Package--Financial, performance, and other  
20 reports required as a condition of the contract, which must be submitted when  
21 one of the following conditions is met:  
22  
23 (A) the contract has expired;  
24  
25 (B) all available funds for the contract period have been paid out;  
26  
27 (C) all accrued expenditures chargeable to the specific contract have been  
28 incurred; or  
29  
30 (D) the period of available funds has expired or been terminated.
- 31  
32 (4) Contract Period--The length of time in which a contract for allocated funds  
33 between the Commission and a Board or an AEL grant recipient is in effect  
34 and during which funds may be expended for a specified purpose, unless  
35 prohibited by a federal grantor agency. A contract period longer than a  
36 program year shall be specified under the terms of a properly executed  
37 contract.
- 38  
39 (5) Deobligation--An action adopted by the Commission to decrease an amount  
40 for a specific program and contract period in a contract with a Board or an  
41 AEL grant recipient for allocated funds, on the basis of provisions as set forth  
42 in §§800.73, ~~and~~ §800.74, 800.78, and 800.79 of this subchapter.
- 43  
44 (6) Equal Base Amount--An amount equivalent to .10 percent (one-tenth of one  
45 percent) of a total allocation, which shall be provided equally to each  
46 workforce area.

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- (7) Hold Harmless/Stop Gain--A procedure that assures that a relative proportion of an allocation to a workforce area is not below 90 percent of the corresponding proportion for the past two years, or that the current year proportion is not above 125 percent of the prior two-year relative proportion.
  - (8) Monthly expenditure report--A written or electronically submitted report by a Board or an AEL grant recipient that contains information regarding services for each category of funding allocated by the Commission, and in which the Board or an AEL grant recipient lists expenditures and obligations by category of funding.
  - (9) Obligation--A debt established by a legally binding contract, letter of agreement, sub-grant award, or purchase order, which has been executed prior to the end of a contract period, for goods and services provided by the end of the contract period, and which will be liquidated 60 calendar days after the end of a contract period, unless such definition is ~~superseded~~ ~~supereeded~~ by federal requirements.
  - (10) Relative proportion of the program year--The corresponding part of the program year that is used to compare expenditures. That is, if 50 percent of the program year has transpired, then the relative proportion of the program year is 50 percent.
  - (11) WIA Formula Allocated Funds--Funds allocated by formula to workforce areas for each of the following separate categories of funding: WIA Adult, Dislocated Worker, and Youth.

29 **§800.71. General Deobligation and Reallocation Provisions.**

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- (a) Purpose. The purpose of this rule is to promote effective service delivery, financial planning, and management to ensure full utilization of funding, and to reallocate funds to populations in need.
  - (b) Scope. Sections 800.71 - ~~800.80~~~~800.77~~ of this subchapter shall apply to funds provided to workforce areas under a contract between the Board or an AEL grant recipient and the Commission for the following categories of funding:
    - (1) Adult Education and Literacy
    - (2) Child Care
    - (3) Choices
    - (4) Employment Service

- 1 (5) SNAP E&T
- 2
- 3 (6) Project RIO
- 4
- 5 (7) WIA Alternative Funding for Statewide Activities
- 6
- 7 (8) WIA Alternative Funding for One-Stop Enhancements
- 8

9 **§800.78. Midyear Deobligation of AEL Funds.**

- 10
- 11 (a) The Commission may deobligate funds from an AEL grant recipient during the
- 12 program year if an AEL grant recipient is not meeting the expenditure thresholds set
- 13 forth in subsection (b) of this section, provided, however, that the requirements of
- 14 [§800.80\(a\) of this subchapter](#)~~subsection (d) of this section~~ are satisfied.
- 15
- 16 (1) AEL grant recipients that fail to meet the expenditure thresholds set forth in
- 17 subsection (b) of this section at the end of ~~month~~~~months~~ four, ~~five, six, or~~
- 18 ~~seven~~ (October, ~~November, December, or January~~), or any month thereafter,
- 19 will be reviewed to determine the causes for the under expenditure of funds,
- 20 except as set forth in subsection ~~(d)~~~~(e)~~ of this section.
- 21
- 22 (2) The Commission shall not deobligate more than the difference between an
- 23 AEL grant recipient's actual expenditures and the amount corresponding to the
- 24 relative proportion of the program year.
- 25
- 26 (3) The Commission shall not deobligate funds from an AEL grant recipient that
- 27 failed to meet the expenditure thresholds set forth in subsection (b) of this
- 28 section, if within 60 days prior to the potential deobligation period the
- 29 Commission executes a contract amendment for a supplemental allocation or
- 30 reallocation of funds in the same program funding category.
- 31
- 32 (b) The Commission may deobligate funds from an AEL grant recipient midyear, as set
- 33 forth in subsection (a) of this section, if an AEL grant recipient fails to achieve the
- 34 expenditure of an amount corresponding to 90 percent or more of the relative
- 35 proportion of the program year.
- 36
- 37 (c) An AEL grant recipient subject to deobligation for failure to meet the requirements
- 38 set forth in this section shall, upon request by the Commission, submit a written
- 39 justification. For an AEL consortium, a copy must be provided to all AEL
- 40 consortium members. The written justification shall provide sufficient detail
- 41 regarding the actions an AEL grant recipient will take to address its deficiencies,
- 42 including:
- 43
- 44 (1) expansion of services proportionate to the available resources;
- 45
- 46 (2) projected service levels and related performance;

- 1  
2 (3) reporting outstanding obligations; and  
3  
4 (4) any other factors an AEL grant recipient would like the Commission to  
5 consider.  
6

7 ~~(d) Any amounts deobligated from an AEL grant recipient must be made available as a~~  
8 ~~first priority to any other AEL grant recipient(s) providing AEL services within the~~  
9 ~~same workforce area that meet the requirements of §800.80(a) of this subchapter,~~  
10 ~~upon receipt and approval by the Commission of an acceptable plan.~~

11  
12 ~~(d)~~(e) To the extent this section may be found not to comply with federal requirements,  
13 or should any related federal waivers expire, the Commission will be subject to  
14 federal requirements in effect, as applicable.  
15

### 16 §800.80. Reallocation of AEL Funds.

17  
18 (a) For an AEL grant recipient to be eligible to receive deobligated AEL funds, the  
19 Commission may consider whether the AEL grant recipient:

- 20  
21 (1) has met targeted expenditure levels as required by §800.78(a) ~~and~~- (b) of this  
22 subchapter, as applicable, for that period;  
23  
24 (2) has not expended or obligated more than 100 percent of the workforce area's  
25 allocation for the category of funding;  
26  
27 (3) has demonstrated that expenditures conform to cost category limits for  
28 funding;  
29  
30 (4) has demonstrated the need for and ability to use additional funds;  
31  
32 (5) is current on expenditure reporting;  
33  
34 (6) is current with all single audit requirements; ~~and~~

35  
36 (7) is meeting performance for the program year; and

37  
38 (8)~~(7)~~ is not under sanction.  
39

40 (b) The Commission must approve any plan to reallocate funds~~Any amounts~~  
41 ~~deobligated or voluntarily deobligated from an AEL grant recipients. The~~  
42 Commission may make such funds~~recipient shall be made~~ available as a first priority  
43 to any other AEL grant recipients providing AEL services within the same workforce  
44 area meeting~~that meet~~ the requirements of subsection (a) of this section, upon receipt  
45 and approval by the Commission of an acceptable plan. Following the determination  
46 that any such plan has not been determined to be acceptable, the Commission may

1 consider ~~an~~AEL grant recipients outside the workforce area~~recipient~~ satisfying the  
2 requirements of subsection (a) of this section, upon receipt and approval by the  
3 Commission of an acceptable plan. In the event AEL grant recipients outside the  
4 workforce area are not able to meet the requirements of subsection (a) of this section,  
5 Agency staff will present an alternate plan for Commission consideration.