

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

2
3 **ADOPTED RULES TO BE PUBLISHED IN THE *TEXAS REGISTER*. THIS**
4 **DOCUMENT WILL HAVE NO SUBSTANTIVE CHANGES BUT IS SUBJECT**
5 **TO FORMATTING CHANGES AS REQUIRED BY THE OFFICE OF THE**
6 **SECRETARY OF STATE.**

7
8 The Texas Workforce Commission (TWC) adopts amendments to the following sections
9 of Chapter 805, relating to Adult Education and Literacy:

10 Subchapter A. General Provisions, §805.2 and §805.4

11 Subchapter B. Staff Qualifications, §805.21

12 Subchapter C. Service Delivery Structure and Alignment, §805.41 and §805.43

13
14
15 The amendment to §805.2 is adopted *with changes* to the proposed text as published in
16 the July 22, 2022, issue of the *Texas Register* (47 TexReg 4285), and, therefore, the
17 adopted rule text will be published. The amendments to §§805.4, 805.21, 805.41, and
18 805.43 are adopted *without changes* to the proposed text as published and, therefore, the
19 adopted rule text will not be published.

20
21 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**

22 The purpose of the adopted amendments to Chapter 805 is to add and clarify Adult
23 Education and Literacy (AEL) terms and definitions, clarify professional development
24 requirements and activities that must be provided by AEL programs, and modify an
25 advisory committee term requirement.

26
27 Further, the General Appropriations Act (Senate Bill (SB) 1, Article VII, Texas
28 Workforce Commission, Rider 46, 87th Legislature, Regular Session (2021)) requires
29 TWC to ensure and require that digital skill building is permitted in its programs. Terms
30 and definitions for "digital literacy skills" and "workforce preparation activities" are
31 adopted to indicate that such activities are expressly allowed under the Workforce
32 Innovation and Opportunity Act (WIOA) and to support digital skill building.

33
34 Texas Government Code, §2001.039 requires that every four years each state agency
35 review and consider for re-adoption, revision, or repeal each rule adopted by that agency.
36 TWC reviewed the rules in Chapter 805 and determined that the rules are needed, reflect
37 current legal and policy considerations, and reflect current TWC procedures. The reasons
38 for initially adopting the rules continue to exist, and any changes to the rules are
39 described in Part II of this preamble.

40
41 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS**

42
43 **SUBCHAPTER A. GENERAL PROVISIONS**

44 TWC adopts the following amendments to Subchapter A:

45
46 **§805.2. Definitions**

47 Section 805.2 is amended to both modify and add definitions.

1
2 Section 805.2(4) is amended to modify the definition for "AEL grant recipient" to update
3 the definition reference for "workforce development area" and to clarify that an AEL
4 grant recipient is one that is awarded AEL funds by TWC through a statewide
5 procurement process described in §805.41.

6
7 Section 805.2(6) is amended to include a reference to WIOA and update the reference to
8 the United States Code in the definition for "AEL service provider." At adoption, the
9 Commission corrected the WIOA reference from WIOA §203(4) to WIOA §203(5) and
10 also revised the reference to the United States Code for consistency.

11
12 New §805.2(11) is added to define "digital literacy skills." Subsequent paragraphs are
13 renumbered accordingly.

14
15 Renumbered §805.2(16) is amended to modify the definition for "professional
16 development" to remove the duration for what is considered a professional development
17 activity.

18
19 At adoption, the Commission corrected the WIOA reference under renumbered
20 §805.2(19) from WIOA §2 to WIOA §3(59).

21
22 New §805.2(20) is added to define "workforce preparation activities." The subsequent
23 paragraph is renumbered accordingly.

24 25 **§805.4. Essential Program Components**

26 Section 805.4 provides that an AEL grant recipient must ensure the essential program
27 components are provided. The section is amended to add language to clarify that those
28 essential program components are outlined in the grant applications for statewide AEL
29 funds.

30
31 Section 805.4(7) is amended to clarify that workforce preparation activities include
32 digital literacy skills.

33
34 Section 805.4(9) is amended to change "and" to "or" to clarify options for meeting the
35 section's requirements.

36 37 **SUBCHAPTER B. STAFF QUALIFICATIONS**

38 TWC adopts the following amendments to Subchapter B:

39 40 **§805.21. Staff Qualifications and Training**

41 Section 805.21 is amended to clarify that the subchapter is applicable to all AEL staff by
42 deleting the language that specifies the subchapter applies to all AEL staff hired after July
43 1, 2013.

44
45 Section 805.21(6) is amended to clarify that instructional aides who provide instruction to
46 students require 15 clock hours of professional development.

1
2 Section 805.21(8) is amended to specify that non-instructional AEL staff must have at
3 least three hours of professional development.

4
5 **SUBCHAPTER C. SERVICE DELIVERY STRUCTURE AND ALIGNMENT**

6 TWC adopts the following amendments to Subchapter C:

7
8 **§805.41. Procurement and Contracting**

9 Section 805.41 is amended to delete "beginning with Program Year 2014" when
10 describing when eligible grant recipients are required to compete for funding through a
11 statewide procurement process.

12
13 **§805.43. Advisory Committees**

14 Section §805.43 is amended to rename the section "AEL Advisory Committee."

15
16 Section 805.43 is amended to modify the requirement that AEL advisory committee
17 members serve for staggered two-year terms; the adopted amendment removes the word
18 "staggered" from the two-year term requirement.

19
20 TWC hereby certifies that the adoption has been reviewed by legal counsel and found to
21 be within TWC's legal authority to adopt.

22
23 **PART III. PUBLIC COMMENTS**

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

25
26 **PART IV. STATUTORY AUTHORITY**

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

30
31 The adopted rules implement the requirements set out in the General Appropriations Act
32 (SB 1, Article VII, Texas Workforce Commission, Rider 46) and bring the rules into
33 alignment with WIOA Title II and Texas Labor Code, Chapter 315.

1
2 (6) AEL service provider--An entity that is eligible to provide AEL
3 services as specified in [the Workforce Innovation and Opportunity Act](#)
4 [\(WIOA\) §203\(5\)\(4\) 29 United States Code §3272\(5\) 20 USC §9202](#) and
5 Texas Labor Code, §315.003.

6
7 (7) Assessment services--The processes, administration, review, and
8 consultation provided to individuals in accordance with the AEL
9 assessment procedure and other agency guidance that direct placement,
10 progress, achievement, and overall program accountability in AEL and
11 other services, including the identification of potential academic or
12 support service needs.

13
14 (8) Clock hour--60 minutes.

15
16 (9) College and career transitional support--Support that may include, but
17 is not limited to, recruiting and outreach, intensive individual case
18 management, career and academic counseling, enrollment and financial
19 aid support, self-advocacy skills development, academic and career
20 support strategies, college and workforce system capacity building,
21 student data records management, and providing access to other
22 support and employment services.

23
24 (10) Contact time--The cumulative sum of minutes during which an eligible
25 adult student receives instructional, counseling, assessment, or testing
26 services (except for testing services used to determine eligibility) from
27 a staff member supported by federal and state AEL funds as
28 documented by local attendance and reporting records.

29
30 (A) Student contact time generated by volunteers may be accrued by
31 the AEL program when volunteer services are verifiable by
32 attendance and reporting records and volunteers meet
33 requirements under §805.21 of this ~~chapter~~ ~~title~~ (relating to Staff
34 Qualifications and Training).

35
36 (B) A student contact hour is 60 minutes.

37
38 (11) Digital literacy skills--The skills associated with:

39
40 (A) using technology to enable users to find, evaluate, organize,
41 create, and communicate information; and

42
43 (B) developing digital citizenship and the responsible use of
44 technology.

1 ~~(11)~~(12) Eligible grant recipient--An entity, as specified in state and federal
2 law, that is eligible to receive AEL program funding. Eligible grant
3 recipients are organizations that have demonstrated effectiveness in
4 providing adult education and literacy activities, and may include:

- 5
- 6 (A) a local educational agency;
- 7
- 8 (B) a community-based organization or faith-based organization;
- 9
- 10 (C) a volunteer literacy organization;
- 11
- 12 (D) an institution of higher education;
- 13
- 14 (E) a public or private nonprofit agency;
- 15
- 16 (F) a library;
- 17
- 18 (G) a public housing authority;
- 19
- 20 (H) a nonprofit institution that is not described in any of
21 subparagraphs (A) ~~through~~ (G) of this paragraph and has the
22 ability to provide adult education and literacy services to eligible
23 individuals;
- 24
- 25 (I) a consortium or coalition of the agencies, organizations,
26 institutions, libraries, or authorities described in any of
27 subparagraphs (A) ~~through~~ (H) of this paragraph; and
- 28
- 29 (J) a partnership between an employer and an entity described in any
30 of subparagraphs (A) ~~through~~ (I) of this paragraph.

31

32 ~~(12)~~(13) Literacy--An individual's ability to read, write, and speak in
33 English, and to compute and solve problems at levels of proficiency
34 necessary to function on the job, in the family of the individual, and in
35 society.

36

37 ~~(13)~~(14) Principles of adult learning--A wide variety of research-based
38 professional development topics that include instructional and advising
39 characteristics specific to adults, and support the range of knowledge,
40 skills, and abilities adults need to understand and use information,
41 express themselves, act independently, effectively manage a changing
42 world, and meet goals and objectives related to career, family, and
43 community participation. Instructional principles include, but are not
44 limited to, engaging adults and customizing instruction on subjects that
45 have immediate relevance to their career and personal goals and

1 objectives, building on their prior knowledge and experience, and
2 supporting them in taking responsibility for their learning.

3
4 ~~(15)~~(14) Proctoring--Support in the administration of tests or pretests under
5 the guidance of a staff member who oversees program assessment
6 services and/or accountability assessment.

7
8 ~~(16)~~(15) Professional development--Encompasses all types of facilitated
9 learning activities for instructors and staff of AEL programs and
10 organizations participating in AEL programs and services. Professional
11 development can be face-to-face or virtual and can be a workshop,
12 lecture, presentation, poster session, roundtable discussion, study circle,
13 or demonstration ~~that meets for a minimum of one hour and upwards in~~
14 ~~increments of one half (0.5) hour (that is, the hours assigned for~~
15 ~~purposes of tracking AEL staff professional development requirements~~
16 ~~in TEAMS, the Texas Educating Adults Management System) to~~
17 accomplish a predetermined educational or learning outcome that is
18 tracked in the statewide AEL data management information system.

19
20 ~~(17)~~(16) Program year--The AEL program year is July 1 through June 30.

21
22 ~~(18)~~(17) Substitute--An instructor who works on call, does not have a full-
23 time assignment, and does not assume permanent responsibilities for
24 class instruction. An individual is considered a substitute if he or she
25 instructs a particular class for four or fewer consecutive class meetings.

26
27 ~~(19)~~(18) Support services--Services such as transportation, child care,
28 dependent care, housing, and needs-related payments, which are
29 necessary to enable an individual to participate in activities as defined
30 in ~~Workforce Innovation and Opportunity Act (WIOA) §3(59)§2.~~

31
32 (20) Workforce preparation activities--Activities, programs, or services
33 described in WIOA §203(17), which are designed to help an individual
34 acquire a combination of basic academic skills, critical thinking skills,
35 digital literacy skills, and self-management skills, including
36 competencies in utilizing resources, using information, working with
37 others, understanding systems, and obtaining skills necessary for
38 successful transition into and completion of postsecondary education,
39 training, or employment.

40
41 ~~(21)~~(19) Workforce training--Services described in WIOA §134(c)(3)(D),
42 including the following:

43
44 (A) occupational skills training, including training for nontraditional
45 employment;
46

- (B) on-the-job training;
- (C) incumbent worker training;
- (D) programs that combine workplace training with related instruction, which may include cooperative education programs;
- (E) training programs operated by the private sector;
- (F) skill upgrading and retraining;
- (G) entrepreneurial training;
- (H) transitional jobs;
- (I) job readiness training provided in combination with services described in any of subparagraphs (A) ~~through~~ (H) of this paragraph;
- (J) AEL activities, including activities of English language acquisition and integrated education and training programs, provided concurrently or in combination with services described in any of subparagraphs (A) ~~through~~ (G) of this paragraph; and
- (K) customized training conducted with a commitment by an employer or group of employers to employ an individual upon successful completion of the training.

§805.4. Essential Program Components.

An AEL grant recipient shall ensure ~~that~~~~the following~~ essential program components are provided, as outlined in the grant application for statewide AEL funds, which include:

- (1) Adult education;
- (2) Literacy;
- (3) Workplace adult education and literacy activities;
- (4) Family literacy activities;
- (5) English language acquisition services;
- (6) Integrated English literacy and civics education;

- 1 (7) Workforce preparation activities, [which includes digital literacy skills](#);
- 2
- 3 (8) Integrated education and training;
- 4
- 5 (9) Assessment and guidance services related to paragraphs (1) - (8) of this
- 6 section; ~~or~~and
- 7
- 8 (10) Collaboration with multiple partners in the community to expand the
- 9 services available to adult learners and to prevent duplication of
- 10 services.
- 11

12 SUBCHAPTER B. STAFF QUALIFICATIONS

13 §805.21. Staff Qualifications and Training.

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

- 16 (1) AEL instructional aides, administrative, data entry, proctoring staff,
- 17 and staff providing support or employment services to students shall
- 18 have at least a high school diploma or high school equivalency
- 19 certificate.
- 20
- 21 (2) AEL directors, supervisors, and staff that oversee program assessment
- 22 services and/or overall program accountability, and instructors in the
- 23 content areas of reading, writing, mathematics, and English language
- 24 acquisition, including substitutes, shall possess at least a bachelor's
- 25 degree.
- 26
- 27 (3) Workforce training instructors must meet the requirements of the
- 28 institution and/or the associated accrediting or credentialing entity, if
- 29 applicable.
- 30
- 31 (4) Requests for exemptions for staff qualification requirements in
- 32 individual cases:
- 33
- 34 (A) may be submitted to the Agency for approval with a justification
- 35 outlining extenuating circumstances; and
- 36
- 37 (B) shall be submitted and approved prior to an individual being
- 38 placed in the position in question.
- 39
- 40 (5) All AEL directors and supervisors, and other staff with program
- 41 oversight or coordination responsibilities shall receive 15 clock hours
- 42 of professional development each program year with the following
- 43 exception: Staff hired on or after January 1 of a program year may
- 44
- 45
- 46

1 require half of the professional development time required for that
2 program year.

3
4 (6) All AEL instructional staff, including instructional aides [providing](#)
5 [instruction to students](#), except substitutes, paid with AEL grant funds or
6 who acquire student contact hours, including volunteers, shall receive
7 at least 15 clock hours of professional development each program year,
8 with the following specifications:

9
10 (A) Instructors in the content areas of reading, writing, mathematics,
11 and English language acquisition shall:

12
13 (i) receive three clock hours of training in principles of adult
14 learning;

15
16 (ii) receive six clock hours in relevant areas of literacy
17 instruction; and

18
19 (iii) receive the remaining six clock hours of training in content
20 areas at the discretion of the program, but consisting of
21 content related to the AEL program's purpose, which is to
22 provide adults with sufficient basic education that enables
23 them to effectively:

24
25 (I) acquire the basic educational skills necessary for
26 literate functioning;

27
28 (II) participate in job training and retraining programs;

29
30 (III) obtain and retain employment; and

31
32 (IV) continue their education to at least the level of
33 secondary school completion and postsecondary
34 education preparation; or

35
36 (iv) waive six clock hours of content area in staff professional
37 development for individuals who have 18 or more college
38 semester undergraduate or graduate credit hours in relevant
39 areas of literacy instruction.

40
41 (B) Staff, as described in subparagraph (A) of this paragraph, hired
42 on or after January 1 of a program year, may require half of the
43 professional development time required for that program year.
44 For instructors in the content areas of reading, writing,
45 mathematics, and English language acquisition, these hours must
46 include three clock hours of training in principles of adult

1 learning and three clock hours in the relevant areas of literacy
2 instruction.

3
4 (C) Staff described in [this](#) paragraph ~~(6) of this section~~ shall receive
5 at least six clock hours of the required professional development
6 outlined in [subparagraph \(A\)\(i\) - \(iii\) of this](#) paragraph ~~(6)(A)(i)-~~
7 ~~(iii) of this section~~ within 30 calendar days of providing
8 instructional activities, if new to AEL or to direct student service
9 delivery. The six hours include the required three hours of
10 principles of adult learning and three hours of the relevant areas
11 of literacy instruction. Waiving of the requirements for staff new
12 to direct student services must be approved by Agency AEL staff
13 prior to the individual providing any instructional services.

14
15 (7) All staff providing support services or college and career transitional
16 support who are paid through an AEL grant shall receive at least three
17 clock hours of professional development each program year.

18
19 (8) AEL [non-instructional support](#) staff, [such as, but not limited to, those](#)
20 assigned test proctoring or data entry duties, shall receive at least three
21 clock hours of professional development related to their primary job
22 duties each program year.

23
24 (9) The requirements for professional development may be reduced by
25 grant recipients in individual cases in which exceptional circumstances
26 prevent employees from completing the required hours of professional
27 development. Exceptional circumstances can include absence from the
28 program or work due to personal health reasons or emergency familial
29 responsibilities, including maternity/paternity. Documentation
30 justifying these circumstances shall be available for monitoring and as
31 requested by AEL staff.

32
33 (10) Records of staff qualifications and professional development shall be
34 maintained by each grant recipient and shall be available for
35 monitoring.

36 37 **SUBCHAPTER C. SERVICE DELIVERY STRUCTURE AND ALIGNMENT**

38 39 **§805.41. Procurement and Contracting.**

40
41 (a) ~~Eligible Beginning with Program Year 2014, eligible~~ grant recipients shall
42 compete for funding through a statewide procurement process conducted in
43 accordance with federal and state procurement requirements. AEL funding
44 shall be allocated as set forth in §800.68 of this title.
45

- 1 (b) Eligible grant recipients shall apply directly to the Agency using the grant
 2 solicitation process, and shall meet all deadlines, requirements, and
 3 guidelines set forth in the grant solicitation.
 4
- 5 (c) Contracts awarded to AEL grant recipients shall be limited to two years, with
 6 the option of three one-year renewals, at the Commission's discretion. In
 7 considering a renewal, the Commission shall take into account performance
 8 and other factors.
 9
- 10 (1) Renewals for years three, four, and five are not automatic, and are
 11 based on meeting or exceeding performance and expenditure
 12 benchmarks, or other factors as determined by the Commission.
 13
- 14 (2) At the completion of the five-year maximum contract term, the Agency
 15 shall conduct a new competitive statewide procurement, including
 16 those contracts that have been in effect for less than the maximum five-
 17 year contract term.
 18
- 19 (d) Determinations by the Agency in the statewide procurement process will be
 20 based on the indicated ability of the eligible grant recipient to effectively
 21 perform all services and activities needed to fully comply with contract
 22 performance requirements and all contract terms and conditions; and may be
 23 influenced by factors used to determine the allocation of AEL funds or other
 24 objective data or criteria.
 25

26 **§805.43. AEL Advisory Committee~~Committees~~.**

27
 28 ~~Statewide Advisory Committee.~~ The Commission shall establish a statewide AEL
 29 advisory committee, composed of no more than nine members appointed by the
 30 Commission.
 31

- 32 (1) Committee members shall:
 33
- 34 (A) have AEL expertise and may include adult educators, providers,
 35 advocates, current or former AEL students, and leaders in the
 36 nonprofit community engaged in literacy promotion efforts;
 37
- 38 (B) include at least one representative of the business community and
 39 at least one representative of a Local Workforce Development
 40 Board ~~(Board)~~; and
 41
- 42 (C) serve for ~~staggered~~ two-year terms. The Commission shall
 43 provide direction when appointing a member to an additional
 44 term.
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- (2) Membership shall be reviewed when a member's employment changes to determine whether the individual continues to meet the requirements for membership.
- (3) The committee shall meet at least quarterly and submit a written report to the Commission on an annual basis.
- (4) The committee shall select a presiding officer as required by Texas Government Code, Chapter 2110.
- (5) The committee shall advise the Commission on:
 - (A) the development of:
 - (i) policies and program priorities that support the development of an educated and skilled workforce in the state;
 - (ii) statewide curriculum guidelines and standards for AEL services that ensure a balance of education and workplace skills development;
 - (iii) a statewide strategy for improving student transitions to postsecondary education and career and technical education training; and
 - (iv) a centralized system for collecting and tracking comprehensive data on AEL program performance outcomes;
 - (B) the exploration of potential partnerships with entities in the nonprofit community engaged in literacy-promotion efforts, entities in the business community, and other appropriate entities to improve statewide literacy programs; and
 - (C) any other issue the Commission considers appropriate.