

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

2
3 **ADOPTED RULES WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS***
4 ***REGISTER*. THIS DOCUMENT WILL NOT HAVE ANY SUBSTANTIVE**
5 **CHANGES BUT IS SUBJECT TO FORMATTING CHANGES AS REQUIRED**
6 **BY THE *TEXAS REGISTER*.**

7
8 ON **NOVEMBER 26, 2018**, THE TEXAS WORKFORCE COMMISSION ADOPTED
9 THE BELOW RULES WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS*
10 *REGISTER*.

11
12 Estimated date of publication in the *Texas Register*: **December 14, 2018**

13 The rules will take effect: **December 17, 2018**

14
15 The Texas Workforce Commission (TWC) adopts amendments to the following sections
16 of Chapter 805, relating to Adult Education and Literacy, *without* changes, as published
17 in the August 17, 2018, issue of the *Texas Register* (43 TexReg 5338):

18
19 Subchapter A. General Provisions, §§805.1 - §805.4

20 Subchapter B. Staff Qualifications, §805.21

21 Subchapter C. Service Delivery Structure and Alignment, §§805.41 - 805.43,
22 §805.45

23
24 TWC adopts the repeal of the following sections of Chapter 805, relating to Adult
25 Education and Literacy, *without* changes, as published in the August 17, 2018, issue of
26 the *Texas Register* (43 TexReg 5338):

27
28 Subchapter A. General Provisions, §805.5

29 Subchapter D. Other Provisions, §805.62

30
31 **PART I. PURPOSE AND BACKGROUND**

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

33
34 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**

35 The purpose of the adopted amendments to Chapter 805 is to align Adult Education and
36 Literacy (AEL) provisions and definitions with the Workforce Innovation and
37 Opportunity Act (WIOA) Title II, clarify language, delete obsolete terms, and extend the
38 allowable terms of AEL advisory committee members.

39
40 WIOA was signed into law on July 22, 2014, replacing the Workforce Investment Act of
41 1998. Title II of WIOA includes substantial changes to definitions relating to AEL,
42 participant eligibility, and eligible providers, as well as changes to the overall intent of
43 the law. TWC staff has evaluated TWC Chapter 805 Adult Education and Literacy rules
44 and determined that definitions must be updated and rules amended to align with WIOA.
45

1 Additionally, staff has identified the need to amend and repeal certain parts of Chapter
2 805 based on management of the program and the addition of new rules in the Texas
3 Education Code (TEC).

4
5 In 2013, the AEL program and its appropriate rules were transferred from the Texas
6 Education Agency (TEA) to TWC. One of the transferred rules relates to the awarding of
7 diplomas to adults based on the secondary school curriculum, course credit requirements,
8 and tests designated by the commissioner of education. That rule was not relevant to
9 TWC operations, as it pertained to graduation criteria for secondary students who are
10 adults. In 2017, legislation established specific requirements for adult high school
11 diploma requirements, but limited the application of those requirements to nonprofit
12 charter schools. Accordingly, based on TWC operations and the change in state law, there
13 is a no longer a need for diploma requirements that were included when AEL was
14 transferred to TWC. Adopted amendments would repeal §805.5 and defer diploma
15 requirements for adults to the TEA.

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

17 **SUBCHAPTER A. GENERAL PROVISIONS**

18 **TWC adopts the following amendments to Subchapter A:**

19 **§805.1. Purpose**

20 Section 805.1(b) is amended to align with the purpose of AEL as outlined in WIOA
21 §203(1)(a) and (b). In §805.1(b), the term "basic education" is replaced by "academic
22 instruction and education services below the postsecondary level," and "enables them to
23 effectively" is replaced with "increase an individual's ability to." Section 805.1(b)(1) is
24 amended to state, "read, write, and speak in English and perform mathematics or other
25 activities necessary for the attainment of a secondary school diploma or its recognized
26 equivalent." Amended §805.1(b)(2) adds "or transition to postsecondary education and
27 training." Section 805.1(b)(4) is removed.

28 **§805.2. Definitions**

29 Section 805.2(1) is amended to align the definition of "adult education" with the
30 definition at WIOA §203(2), which is "programs, activities, and services that include
31 adult education, literacy, workplace adult education and literacy activities, family literacy
32 activities, English language acquisition activities, integrated English literacy and civics
33 education, workforce preparation activities, or integrated education and training."
34 Sections 805.2(1)(A), 805.2(1)(B), and 805.2(1)(C) are repealed.

35
36 In §805.2(10), the definition of "contact time" is amended to distinguish between testing
37 and assessment services by adding "testing services," specifying "except for testing
38 services used to determine eligibility."

39
40 The current definition of an eligible grant recipient in §805.2(11) is amended to align
41 with the definition of an eligible provider in WIOA §203(5), adding that eligible grant
42 recipients "are organizations that have demonstrated effectiveness in providing adult
43

1 education and literacy activities." The list of eligible grant recipients in current
2 §§805.2(11)(A) - (I) is amended as follows:
3 --Section 805.2(11)(B) is modified to replace the phrase "of demonstrated effectiveness"
4 with "or faith-based organization."
5 --The phrase "of demonstrated effectiveness" is removed from §805.2(11)(C).
6 --Section 805.2(11)(H) is amended to specify that literacy services are AEL services, and
7 "adults and families" is replaced with "eligible individuals."
8 --Current §805.2(11)(I) is amended to add "or coalition" after "consortium."
9 --New §805.2(11)(J) adds "a partnership between an employer and an entity described in
10 any of subparagraphs (A) through (I)" as an eligible grant recipient.

11 12 **§805.3. Federal and State AEL Funds**

13 Section 805.3 is amended to align with the description of an individual in AEL programs
14 for which federal AEL funds may be used to the definition of an eligible individual under
15 WIOA. Amended §805.3(a) removes "out-of-school." Section 805.3(a)(1) replaces "lack
16 sufficient mastery of basic educational skills to enable the individuals to function
17 effectively in society," with "are basic skills deficient." Section 805.3(a)(3) replaces "are
18 unable to speak, read, or write the English language" with "are English language
19 learners."

20
21 Section 805.3(b)(1) replaces "lack sufficient mastery of basic educational skills to enable
22 the individuals to function effectively in society," with "are basic skills deficient."

23 Section 805.3(b)(3) replaces "are unable to speak, read, or write the English language"
24 with "are English language learners."

25
26 Section 805.3(d) is amended to remove language that states that the use of AEL funds is
27 for specific student populations.

28 29 **§805.4. Essential Program Components**

30 Section 805.4 is amended to align the essential AEL program components to the
31 allowable and required AEL activities in WIOA. The current six essential program
32 components are expanded and revised as follows:

33 --Section 805.4(1) is amended to remove "basic" from "adult basic education."

34 --Section 805.4(2) is amended to replace "programs for adults of limited English
35 proficiency" with "literacy."

36 --Section 805.4(3) is amended to replace "adult secondary education, including programs
37 leading to a high school equivalency certificate or a high school diploma" with
38 "workplace adult education and literacy activities."

39 --Section 805.4(4) is amended to replace "instructional services to improve student
40 proficiencies necessary to function effectively in adult life, including accessing further
41 education, employment-related training, or employment" with "family literacy activities."
42 --Section 805.4(5) is renumbered as §805.4(9) and "paragraphs (1) - (4) of this section" is
43 changed to "paragraphs (1) - (8) of this section."

44 --Section 805.4(6) is renumbered as §805.4(10).

45 --New §805.4(5) is added to include "English language acquisition services."

46 --New §805.4(6) adds "integrated English literacy and civics education."

1 --New §805.4(7) adds "workforce preparation activities."

2 --New §805.4(8) adds "integrated education and training."

3
4 **§805.5. Diploma Requirements**

5 Section 805.5 is repealed because these rules on diploma requirements are no longer
6 relevant to AEL.

7
8 **SUBCHAPTER B. STAFF QUALIFICATIONS**

9 **TWC adopts the following amendments to Subchapter B:**

10
11 **§805.21. Staff Qualifications and Training**

12 Section 805.21(1) is amended by adding "instructional" before "aides," to clarify that
13 instructional aides who provide direct instruction shall receive 15 hours of professional
14 development each year. Section 805.21(6) adds "including instructional aides."

15
16 **SUBCHAPTER C. SERVICE DELIVERY STRUCTURE AND ALIGNMENT**

17 **TWC adopts the following amendments to Subchapter C:**

18
19 **§805.41. Procurement and Contracting**

20 Section §805.41(b) is amended to replace "request for proposals (RFP)" with "grant
21 solicitation" to align with TWC's direction on AEL competition process and
22 requirements.

23
24 **§805.42. Program Delivery System**

25 Section 805.42(c)(2) is amended to replace "career training" with "workforce training," to
26 align with WIOA policy on postsecondary education and training.

27
28 **§805.43. Advisory Committees**

29 Section 805.43(1)(C) replaces "one term" with "no more than two terms. The
30 Commission shall provide direction when appointing a member to a second term," to
31 expand Statewide Advisory Committee term limits to ensure allowable consistency and
32 continuity on committee projects.

33
34 **§805.45. Tuition and Fees**

35 Section 805.45 adds a provision to align to 2 CFR §200.305(b)(5), specifying that funds
36 generated by tuition and fees "must be expended before federal and state grant funds."

37
38 **SUBCHAPTER D. OTHER PROVISIONS**

39 **TWC adopts the following amendments to Subchapter D:**

40
41 **§805.62. Evaluation of Programs**

42 Section 805.62 is repealed, as WIOA requires that funds provided under WIOA §231 be
43 used on state leadership activities, including monitoring and evaluating the quality of and
44 improvement in AEL activities.

45
46 No comments were received.

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

The rules are adopted 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 adopted rules affect Title 4, Texas Labor Code, particularly Chapters 301 and 302.

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

2
3 **SUBCHAPTER A. GENERAL PROVISIONS**

4
5 **§805.1. Purpose.**

- 6
7 (a) The rules contained in this chapter may be cited as the Adult Education and
8 Literacy (AEL) rules.
9
10 (b) The purpose of the AEL programs is to provide adults with sufficient
11 academic instruction and education services below the postsecondary level to
12 increase an individual's ability to:
13
14 (1) read, write, and speak in English and perform mathematics or other
15 activities necessary for the attainment of a secondary school diploma or
16 its recognized equivalent;
17
18 (2) participate in job training and retraining programs or transition to
19 postsecondary education and training; and
20
21 (3) obtain and retain employment

22
23 **§805.2. Definitions.**

24
25 The following words and terms, when used in this chapter, shall have the
26 following meanings, unless the context clearly indicates otherwise.

- 27
28 (1) Adult education--Programs, activities, and services that include adult
29 education, literacy, workplace adult education and literacy activities,
30 family literacy activities, English language acquisition activities,
31 integrated English literacy and civics education, workforce preparation
32 activities, or integrated education and training.
33
34 (2) AEL consortium--A partnership of educational, workforce
35 development, social service entities, and other public and private
36 organizations that agree to partner, collaborate, plan, and apply for
37 funding to provide AEL and related support services. Consortium
38 members shall include an AEL grant recipient, AEL fiscal agent, an
39 AEL lead organization of a consortium, and AEL service provider(s).
40 Consortium members may serve in one or more of the functions in
41 accordance with state statutes and Commission rules.
42
43 (3) AEL fiscal agent--An entity that is assigned financial management
44 duties as outlined in an Agency-AEL contract or is assigned this
45 function as a member of an AEL consortium.
46

- 1 (4) AEL grant recipient--An eligible grant recipient within a local
2 workforce development area (workforce area), as defined in §800.2(11)
3 of this title, that is awarded AEL funds by the Agency. The AEL grant
4 recipient also may act as an AEL lead organization of a consortium,
5 AEL fiscal agent, or AEL service provider as designated in an
6 agreement with an AEL consortium.
7
- 8 (5) AEL lead organization of a consortium--An organization designated as
9 the AEL consortium manager in a written agreement between AEL
10 consortium members. The AEL lead organization of a consortium is
11 responsible for planning and leadership responsibilities as outlined in
12 the written agreement and also may serve as an AEL grant recipient,
13 AEL fiscal agent, or AEL service provider. If a consortium does not
14 identify the lead organization of a consortium through a written
15 agreement, the AEL grant recipient will be presumed to assume the
16 responsibility of the lead organization of the consortium.
17
- 18 (6) AEL service provider--An entity that is eligible to provide AEL
19 services as specified in 20 USC §9202 and Texas Labor Code
20 §315.003.
21
- 22 (7) Assessment services--The processes, administration, review, and
23 consultation provided to individuals in accordance with the AEL
24 assessment procedure and other agency guidance that direct placement,
25 progress, achievement, and overall program accountability in AEL and
26 other services, including the identification of potential academic or
27 support service needs.
28
- 29 (8) Clock hour--60 minutes.
30
- 31 (9) College and career transitional support--Support that may include, but
32 is not limited to, recruiting and outreach, intensive individual case
33 management, career and academic counseling, enrollment and financial
34 aid support, self-advocacy skills development, academic and career
35 support strategies, college and workforce system capacity building,
36 student data records management, and providing access to other
37 support and employment services.
38
- 39 (10) Contact time--The cumulative sum of minutes during which an eligible
40 adult student receives instructional, counseling, assessment, or testing
41 services (except for testing services used to determine eligibility) from
42 a staff member supported by federal and state AEL funds as
43 documented by local attendance and reporting records.
44
- 45 (A) Student contact time generated by volunteers may be accrued by
46 the AEL program when volunteer services are verifiable by

1 attendance and reporting records and volunteers meet
2 requirements under §805.21 of this title (relating to Staff
3 Qualifications and Training).
4

5 (B) A student contact hour is 60 minutes.
6

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

12 (A) a local educational agency;

13 (B) a community-based organization or faith-based organization;

14 (C) a volunteer literacy organization;

15 (D) an institution of higher education;

16 (E) a public or private nonprofit agency;

17 (F) a library;

18 (G) a public housing authority;

19 (H) a nonprofit institution that is not described in any of subparagraphs
20 (A) through (G) and has the ability to provide adult education and
21 literacy services to eligible individuals;

22 (I) a consortium or coalition of the agencies, organizations,
23 institutions, libraries, or authorities described in any of
24 subparagraphs (A) through (H) of this paragraph; and

25 (J) a partnership between an employer and an entity described in any
26 of subparagraphs (A) through (I) of this paragraph.
27

28 (12) Literacy--An individual's ability to read, write, and speak in English,
29 and to compute and solve problems at levels of proficiency necessary to
30 function on the job, in the family of the individual, and in society.
31

32 (13) Principles of adult learning--A wide variety of research-based
33 professional development topics that include instructional and advising
34 characteristics specific to adults, and support the range of knowledge,
35 skills, and abilities adults need to understand and use information,
36 express themselves, act independently, effectively manage a changing
37 world, and meet goals and objectives related to career, family, and
38 community participation. Instructional principles include, but are not
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1 limited to, engaging adults and customizing instruction on subjects that
2 have immediate relevance to their career and personal goals and
3 objectives, building on their prior knowledge and experience, and
4 supporting them in taking responsibility for their learning.
5

6 (14) Proctoring--Support in the administration of tests or pretests under the
7 guidance of a staff member who oversees program assessment services
8 and/or accountability assessment.
9

10 (15) Professional development--Encompasses all types of facilitated
11 learning activities for instructors and staff of AEL programs and
12 organizations participating in AEL programs and services. Professional
13 development can be face-to-face or virtual and can be a workshop,
14 lecture, presentation, poster session, roundtable discussion, study circle,
15 or demonstration that meets for a minimum of one hour and upwards in
16 increments of one half (0.5) hour (that is, the hours assigned for
17 purposes of tracking AEL staff professional development requirements
18 in TEAMS, the Texas Educating Adults Management System) to
19 accomplish a predetermined educational or learning outcome.
20

21 (16) Program year--The AEL program year is July 1 through June 30.
22

23 (17) Substitute--An instructor who works on call, does not have a full-time
24 assignment, and does not assume permanent responsibilities for class
25 instruction. An individual is considered a substitute if he or she
26 instructs a particular class for four or fewer consecutive class meetings.
27

28 (18) Support services--Services such as transportation, child care, dependent
29 care, housing, and needs-related payments, which are necessary to
30 enable an individual to participate in activities as defined in Workforce
31 Innovation and Opportunity Act (WIOA) §2.
32

33 (19) Workforce training--Services described in WIOA §134(c)(3)(D),
34 including the following:
35

36 (A) occupational skills training, including training for nontraditional
37 employment;
38

39 (B) on-the-job training;
40

41 (C) incumbent worker training;
42

43 (D) programs that combine workplace training with related
44 instruction, which may include cooperative education programs;
45

46 (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.

§805.3. Federal and State AEL Funds.

- (a) Federal AEL funds may be used for AEL programs for individuals who have attained 16 years of age and who are not enrolled or required to be enrolled in secondary school under state law and:
 - (1) are basic skills deficient;
 - (2) do not have a secondary school diploma or its recognized equivalent, and have not achieved an equivalent level of education; or
 - (3) are English language learners.
- (b) State AEL funds are to be used for AEL programs for out-of-school individuals who are beyond the compulsory age of attendance unless specifically exempted from compulsory school attendance by Texas Education Code §25.086 and:
 - (1) are basic skills deficient;
 - (2) do not have a secondary school diploma or its recognized equivalent, and have not achieved an equivalent level of education; or
 - (3) are English language learners.
- (c) The proportion of students served who meet the requirements of subsection (a) of this section, but do not meet the requirements of subsection (b) of this

1 section, shall not exceed the grant recipient's percentage of federal funds to
2 the total allocation.

- 3
4 (d) The Commission shall establish annual performance benchmarks for the use
5 of AEL funds.

6
7 **§805.4. Essential Program Components.**

8
9 An AEL grant recipient shall ensure the following essential program components
10 are provided:

- 11
12 (1) Adult education;
13
14 (2) Literacy;
15
16 (3) Workplace adult education and literacy activities;
17
18 (4) Family literacy activities;
19
20 (5) English language acquisition services;
21
22 (6) Integrated English literacy and civics education;
23
24 (7) Workforce preparation activities;
25
26 (8) Integrated education and training;
27
28 (9) Assessment and guidance services related to paragraphs (1) - (8) of this
29 section; and
30
31 (10) Collaboration with multiple partners in the community to expand the
32 services available to adult learners and to prevent duplication of
33 services.

34
35 ~~**§805.5. Diploma Requirements.**~~

36
37 ~~The standards for the awarding of diplomas to adults shall be those established~~
38 ~~under 19 Texas Administrative Code, Chapter 74, Subchapter A (relating to~~
39 ~~Curriculum Requirements) with the following exceptions:~~

- 40
41 ~~(1) There shall be no limit to the number of secondary credits adults may~~
42 ~~earn by demonstration of competence.~~
43
44 ~~(2) Adults may earn the required physical education credits by one or more~~
45 ~~of the following:~~
46

1 ~~(A) Satisfactory completion of approved secondary physical~~
2 ~~education courses; or~~

3
4 ~~(B) Substitution of state approved secondary elective courses.~~

5
6 ~~(3) Adults shall meet the requirements for successful performance on a~~
7 ~~secondary level test designated by the commissioner of education.~~

8
9 **SUBCHAPTER B. STAFF QUALIFICATIONS**

10
11 **§805.21. Staff Qualifications and Training.**

12
13 The requirements of this section shall apply to all AEL staff hired after July 1,
14 2013, excluding clerical and janitorial staff.

- 15
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 require half of the professional development time required for that
45 program year.
46

1 (6) All AEL instructional staff, including instructional aides, except
2 substitutes, paid with AEL grant funds or who acquire student contact
3 hours, including volunteers, shall receive at least 15 clock hours of
4 professional development each program year, with the following
5 specifications:
6

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

10 (i) receive three clock hours of training in principles of adult
11 learning;
12

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

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

22 (I) acquire the basic educational skills necessary for
23 literate functioning;
24

25 (II) participate in job training and retraining programs;
26

27 (III) obtain and retain employment; and
28

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

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

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

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

11
12 (7) All staff providing support services or college and career transitional
13 support who are paid through an AEL grant shall receive at least three
14 clock hours of professional development each program year.

15
16 (8) AEL staff assigned test proctoring or data entry duties shall receive at
17 least three clock hours of professional development related to their
18 primary job duties each program year.

19
20 (9) The requirements for professional development may be reduced by
21 grant recipients in individual cases in which exceptional circumstances
22 prevent employees from completing the required hours of professional
23 development. Exceptional circumstances can include absence from the
24 program or work due to personal health reasons or emergency familial
25 responsibilities, including maternity/paternity. Documentation
26 justifying these circumstances shall be available for monitoring and as
27 requested by AEL staff.

28
29 (10) Records of staff qualifications and professional development shall be
30 maintained by each grant recipient and shall be available for
31 monitoring.

32
33 **SUBCHAPTER C. SERVICE DELIVERY STRUCTURE AND ALIGNMENT**

34
35 **§805.41. Procurement and Contracting.**

36
37 (a) Beginning with Program Year 2014, eligible grant recipients shall compete
38 for funding through a statewide procurement process conducted in
39 accordance with federal and state procurement requirements. AEL funding
40 shall be allocated as set forth in §800.68 of this title.

41
42 (b) Eligible grant recipients shall apply directly to the Agency using the grant
43 solicitation process, and shall meet all deadlines, requirements, and
44 guidelines set forth in the grant solicitation.

45

1 (c) Contracts awarded to AEL grant recipients shall be limited to two years, with
2 the option of three one-year renewals, at the Commission's discretion. In
3 considering a renewal, the Commission shall take into account performance
4 and other factors.

5
6 (1) Renewals for years three, four, and five are not automatic, and are
7 based on meeting or exceeding performance and expenditure
8 benchmarks, or other factors as determined by the Commission.

9
10 (2) At the completion of the five-year maximum contract term, the Agency
11 shall conduct a new competitive statewide procurement, including
12 those contracts that have been in effect for less than the maximum five-
13 year contract term.

14
15 (d) Determinations by the Agency in the statewide procurement process will be
16 based on the indicated ability of the eligible grant recipient to effectively
17 perform all services and activities needed to fully comply with contract
18 performance requirements and all contract terms and conditions, and may be
19 influenced by factors used to determine the allocation of AEL funds or other
20 objective data or criteria.

21
22 **§805.42. Program Delivery System.**

23
24 (a) There shall be a statewide AEL program delivery system that provides AEL
25 services on a coordinated basis within each workforce area.

26
27 (b) An eligible grant recipient must apply directly to the Agency for AEL
28 funding.

29
30 (c) Each eligible grant recipient must demonstrate an ability to:

31
32 (1) plan and develop a service delivery strategy that includes a broad
33 analysis of the educational, economic, and workforce development
34 trends across the entire workforce area to provide eligible AEL students
35 with comprehensive and locally responsive services; and

36
37 (2) expand, improve, and coordinate delivery of education, workforce
38 training, workforce development, and support services.

39
40 (d) Each eligible grant recipient applying for AEL funding on behalf of an AEL
41 consortium must:

42
43 (1) meet the requirements set forth in subsection (c)(1) - (2) of this section;

44
45 (2) designate an entity to serve as the AEL lead organization of the
46 consortium; and

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- (3) designate an entity to serve as AEL fiscal agent for the AEL consortium. The AEL fiscal agent is responsible for making and filing all financial reports to the AEL grant recipient that will review all reports and submit to the Agency on behalf of the consortium.

- (e) An AEL grant application must reflect service delivery strategies for the workforce area. In workforce areas that are heavily populated or have large service regions, the Agency may elect to contract with more than one AEL grant recipient within a workforce area.

- (f) An AEL grant recipient, awarded AEL funds by the Agency, shall be responsible for performing all services and activities required to fully comply with contract performance requirements and all contract terms and conditions. Responsibilities include, but are not limited, to the following:
 - (1) Communication.
 - (A) The AEL grant recipient shall serve as the point of contact with the Agency.
 - (B) For an AEL consortium, on behalf of AEL consortium members, the AEL grant recipient shall:
 - (i) transmit questions and grant-related needs for AEL consortium members to the Agency; and
 - (ii) carry out the programmatic functions of an AEL grant by communicating regularly with members of the AEL consortium and by sharing information, policy or procedural changes, and technical assistance provided by the Agency to oversee the grant.
 - (2) Monitoring. The AEL grant recipient shall:
 - (A) monitor programmatic and fiscal progress against goals and project deliverables; and
 - (B) timely notify the Agency of problems related to achievement of programmatic and fiscal goals of the grant in accordance with appropriate systems to receive and compile outcome measures and fiscal reports.
 - (3) Technical assistance. The AEL grant recipient shall carry out the programmatic and reporting functions of an AEL grant by providing or requesting technical assistance for its program, or in an AEL

1 consortium for AEL consortium members, related to the design,
2 implementation, and internal evaluation of their AEL services or
3 support services.

4
5 (4) Professional development. The AEL grant recipient shall plan and
6 coordinate the provision of necessary professional development
7 opportunities for its program, or in an AEL consortium to the AEL
8 consortium members.

9
10 (5) Reporting. The AEL grant recipient shall:

11
12 (A) collect and compile all fiscal and programmatic information
13 regarding the activities, expenses, and performance outputs and
14 outcomes of the AEL grant; and

15
16 (B) submit this information to the Agency.

17
18 (6) Workforce area coverage.

19
20 (A) The AEL grant recipient shall ensure that services are provided to
21 the portion of the workforce area designated in the AEL grant
22 application, whether through in-person services or distance
23 learning, or a combination of methods.

24
25 (B) For an AEL consortium, the AEL grant recipient shall ensure that
26 services are provided to the portion of the workforce area, as
27 designated for the consortium in the AEL grant application,
28 whether through in-person services or distance learning, or a
29 combination of methods.

30
31 (i) If a consortium member fails to perform in accordance with
32 the AEL consortium's coordinated service delivery plan, the
33 AEL grant recipient shall provide technical assistance, as
34 appropriate;

35
36 (ii) If a consortium member withdraws from a consortium, the
37 AEL grant recipient shall ensure that a letter of intent to
38 withdraw is provided to the Agency's grant contract
39 manager. The AEL grant recipient shall coordinate with
40 remaining consortium members to develop an alternative
41 proposal for service delivery and submit it to the Agency for
42 approval;

43
44 (iii) If an AEL lead organization of a consortium withdraws from
45 a consortium or from its role as the lead organization of the
46 consortium, the AEL grant recipient must ensure that a letter

1 of intent to withdraw is provided to the Agency contract
2 manager. The AEL grant recipient must coordinate with
3 remaining consortium members to identify an alternative
4 lead organization of the consortium and submit it to the
5 Agency for approval; and
6

7 (iv) If, in a workforce area with multiple consortiums that cover
8 the entire workforce area, one or more consortiums
9 withdraws, the AEL grant recipient shall ensure that a letter
10 of intent to withdraw is provided to the Agency's grant
11 contract manager. The Agency will coordinate with the
12 remaining consortiums to develop an alternative proposal for
13 service delivery for the entire workforce area.
14

15 (g) For an AEL consortium, the Agency reserves the right to reevaluate an AEL
16 grant in light of any change in the AEL consortium membership based on the
17 consortium's continued ability to meet the terms of the original grant award
18 as demonstrated through an alternative proposal. The Agency's reevaluation
19 may include termination of all awards under the AEL consortium if deemed
20 appropriate.
21

22 (1) If an AEL consortium or AEL consortium member withdraws, the
23 funds and activities committed to in the application shall not be shifted
24 to another AEL consortium, AEL consortium member, or a new
25 institution without written Agency approval.
26

27 (2) The AEL grant recipient shall contact the Agency's grant contract
28 manager to discuss options for replacement grants within the AEL
29 consortium.
30

31 **§805.43. Advisory Committees.**

32
33 Statewide Advisory Committee. The Commission shall establish a statewide AEL
34 advisory committee, composed of no more than nine members appointed by the
35 Commission.
36

37 (1) Committee members shall:
38

39 (A) have AEL expertise and may include adult educators, providers,
40 advocates, current or former AEL students, and leaders in the
41 nonprofit community engaged in literacy promotion efforts;
42

43 (B) include at least one representative of the business community and
44 at least one representative of a Local Workforce Development
45 Board (Board); and
46

1 (C) serve for staggered two-year terms. The Commission shall
2 provide direction when appointing a member to an additional
3 term.

4
5 (2) Membership shall be reviewed when a member's employment changes
6 to determine whether the individual continues to meet the requirements
7 for membership.

8
9 (3) The committee shall meet at least quarterly and submit a written report
10 to the Commission on an annual basis.

11
12 (4) The committee shall select a presiding officer as required by Texas
13 Government Code, Chapter 2110.

14
15 (5) The committee shall advise the Commission on:

16 (A) the development of:

17 (i) policies and program priorities that support the development
18 of an educated and skilled workforce in the state;

19 (ii) statewide curriculum guidelines and standards for AEL
20 services that ensure a balance of education and workplace
21 skills development;

22 (iii) a statewide strategy for improving student transitions to
23 postsecondary education and career and technical education
24 training; and

25 (iv) a centralized system for collecting and tracking
26 comprehensive data on AEL program performance
27 outcomes;

28 (B) the exploration of potential partnerships with entities in the
29 nonprofit community engaged in literacy-promotion efforts,
30 entities in the business community, and other appropriate entities
31 to improve statewide literacy programs; and

32 (C) any other issue the Commission considers appropriate.
33

34
35 **§805.45. Tuition and Fees.**

36 Tuition and fees shall not be charged unless the entity charging them is
37 statutorily authorized to do so. Funds generated by tuition and fees shall be
38 used for the AEL instructional programs, and must be expended before
39 federal and state grant funds, in accordance with 2 CFR §200.305(b)(5).
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SUBCHAPTER D. OTHER PROVISIONS

~~§805.62. Evaluation of Programs.~~

~~The Commission shall evaluate AEL programs based on the indicators of program quality for adult education.~~