

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

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

**ON JUNE 30, 2016, THE TEXAS WORKFORCE COMMISSION ADOPTED THE BELOW RULES WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS REGISTER*.**

Estimated date of publication in the *Texas Register*: **July 15, 2016**  
The rules will take effect: **July 20, 2016**

The Texas Workforce Commission (Commission) adopts amendments to the following section of Chapter 805, relating to Adult Education and Literacy, *with changes*, as published in the April 22, 2016, issue of the Texas Register (41 TexReg 2889):

Subchapter A. General Provisions, §805.3

The Commission adopts amendments to the following sections of Chapter 805, relating to Adult Education and Literacy, *without changes*, as published in the April 22, 2016, issue of the Texas Register (41 TexReg 2889):

Subchapter A. General Provisions, §805.2

Subchapter B. Staff Qualifications, §805.21

**PART I. PURPOSE AND BACKGROUND**

**PART II. EXPLANATION OF INDIVIDUAL PROVISIONS WITH COMMENTS AND RESPONSES**

### **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**

The purpose of the amendment to §805.21 is to address issues based on observations and feedback related to finding and supporting qualified staff across an Adult Education and Literacy (AEL) system built on partnerships.

Current staff qualification requirements set forth in §805.21 were carried over with some modifications from the Texas Education Code (TEC). The TEC rules were developed for an AEL program that largely operated as an independent, nonintegrated program. Transition of the AEL program to TWC, with the implementation of new contracts, has revealed a stronger need for partnerships, including partnerships with community colleges and Local Workforce Development Boards (Boards).

The amendment to §805.3 aligns with new Texas Education Code (TEC) §25.085, which modifies the compulsory attendance age from 18 years to 19 years.

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

### **SUBCHAPTER A. GENERAL PROVISIONS**

#### **The Commission adopts the following amendments to Subchapter A:**

##### **§805.2. Definitions**

New §805.2(7) defines "assessment services" as the processes, administration, review, and consultation provided to individuals in accordance with the AEL assessment procedure and other agency guidance to direct placement, progress, and achievement in AEL and other instructional services, including the identification of potential academic or support service needs.

New §805.2(8) defines "clock hour," distinguishing a clock hour of 60 minutes from a credit hour, which constitutes 50 minutes of instruction over a 15-week period in a semester system or a 10-week period in a quarter system.

New §805.2(9) defines "college and career transitional support" as support that may include, but is not limited to, recruiting and outreach, intensive individual case management, career and academic counseling, enrollment and financial aid support, self-advocacy skills development, academic and career support strategies, college and workforce system capacity building, student data records management, and providing access to other support and employment services.

New §805.2(12) defines "literacy," in alignment with the Workforce Innovation and Opportunity Act (WIOA), as an individual's ability to read, write, and speak in English, and to compute and solve problems at levels of proficiency necessary to function on the job, in the family of the individual, and in society.

New §805.2(13) defines "principles of adult learning" as a wide variety of research-based professional development topics that include instructional and advising characteristics specific to adults, and support the range of knowledge, skills, and abilities adults need to understand and use information, express themselves, act independently, effectively manage a changing world, and meet goals and objectives related to career, family, and community participation. Instructional principles include, but are not limited to, engaging adults and customizing instruction on subjects that have immediate relevance to their career and personal goals and objectives, building on their prior knowledge and experience, and supporting them in taking responsibility for their learning.

New §805.2(14) defines "proctoring" as one type of assessment service, the administration of tests or pretests by test proctors working under the guidance or supervision of an individual who oversees program assessment services and/or accountability assessment.

New §805.2(15) defines "professional development" as encompassing all types of facilitated learning activities for instructors and staff of AEL programs and organizations participating in AEL programs and services. Professional development can be face-to-

face or virtual and can be a workshop, lecture, presentation, poster session, roundtable discussion, study circle, or demonstration that meets for a minimum of one hour and upwards in increments of one half (.5) hour (i.e., the hours assigned for purposes of tracking AEL staff professional development requirements in TEAMS, the Texas Educating Adults Management System) to accomplish a predetermined educational or learning outcome.

New §805.2(16) defines "program year" for AEL purposes. The AEL program year, which aligns to the U.S. Department of Education's (ED) Adult Education and Family Literacy Act (AEFLA) program year, is July 1 through June 30.

New §805.2(17) defines "substitute," specifying the distinction between a substitute and a full- or part-time instructor. A substitute works on call, does not have a full-time assignment, and does not assume permanent responsibilities for class instruction. An individual is considered a substitute if he or she instructs a particular class for four or fewer consecutive class meetings.

New §805.2(18) defines "support services," to align with the definition in WIOA §2 , as services such as transportation, child care, dependent care, housing, and needs-related payments, which are necessary to enable an individual to participate in activities.

New §805.2(19) defines "workforce training" to align with the definition in WIOA §134(c)(3)(D), which states that workforce training services may include the following:

- (A) occupational skills training, including training for nontraditional employment;
- (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.

**Comment:** One commenter requested a modification of the definition of "Principles of Adult Learning" by removing "effectively manage a changing world."

**Response:** The Commission maintains the definition from the proposed rules, recognizing that lifelong learning is a critical element for successful

career development and a tenet of established adult learning theory, a core philosophy of adult education.

### **§805.3. Federal and State AEL Funds**

Section 805.3 is amended to replace "18 years of age" with "19 years of age" to align with new TEC §25.085.

**Comment:** One commenter recommended modifying "19 years of age" to "compulsory age" to better align with other language found in Agency guidance and rules.

**Response:** The Commission agrees with this recommendation and has modified the language accordingly.

## **SUBCHAPTER B. STAFF QUALIFICATIONS**

**The Commission adopts the following amendments to Subchapter B:**

### **§805.21. Staff Qualifications and Training**

Current §805.21(1) and (2) are removed.

Current §805.21(3) is renumbered as new §805.21(1), and is amended to apply additionally to administrative, data entry, and proctoring staff, and staff providing support or employment services to students.

Current §805.21(4) is renumbered as new §805.21(2), and is amended to remove teachers and counselors and to apply additionally to staff that oversees program assessment services and/or accountability and instructors in the content areas of reading, writing, mathematics, and English language acquisition, including substitutes, shall possess at least a bachelor's degree.

New §805.21(3) is added to specify requirements for workforce training instructors.

New §805.21(4) is added to set forth the process for submitting staff qualification exemption requests

New §805.21(4)(B) specifies that exemptions must be submitted and approved prior to an individual being placed in the position for which an exemption is requested.

Current §805.21(5) is amended to remove teachers and counselors and add "other staff with program oversight or coordination responsibilities." The required 12 clock hours of professional development annually is modified to 15 clock hours each program year. The provision modifying the amount of required professional development once the described individuals have completed six clock hours of AEL college credit or two years of AEL experience is removed. Additionally, staff described in §805.21(5), hired on or after January 1 of a program year, may have half of the required staff professional

development time required in that particular program year.

Current §805.21(6) is renumbered as new §805.21(9) new §805.21(6) is added to specify that all AEL instructional staff, except substitutes, who are paid with AEL grant funds or who acquire student contact hours, including volunteers, shall receive at least 15 clock hours of professional development each program year.

New §805.21(6)(A)(i) - (iii) specify that the 15 hours shall include three clock hours of principles of adult learning as defined in §805.2(13), six clock hours in relevant areas of literacy instruction, with literacy defined in §805.2(12), and six hours at the discretion of the program that consist of content related to the AEL program's purpose, which is to provide adults with specific basic education that enables them to effectively:

- acquire the basic educational skills necessary for literate functioning;
- participate in job training and retraining programs;
- obtain and retain employment; and
- continue their education to at least the level of secondary school completion and postsecondary education preparation.

New §805.21(6)(A)(iv) allows for six clock hours of content area in staff professional development to be waived for individuals who have 18 or more college semester undergraduate or graduate credit hours in relevant areas of literacy instruction.

New §805.21(6)(B) is added to specify that staff meeting the specifications outlined in §805.21(6)(A) and hired on or after January 1 of a program year, may require half of the professional development time required for that program year, and to specify that for instructors in the content areas of reading, writing, mathematics, and English language acquisition, the professional development time completed shall consist of three clock hours of training in principles of adult learning and three clock hours in the relevant areas of literacy instruction.

New §805.21(6)(C) is added to specify that staff described in §805.21(2) must receive at least six clock hours of professional development as described in §805.21(b)(2)(A)(i) - (iii) within 30 calendar days of providing instructional activities if new to AEL or direct student service delivery; the six hours include the required three hours of principles of adult learning and three hours of the relevant areas of literacy instruction. New §805.21(6)(C) also specifies that any waiver of the requirement that staff members who are new to AEL or to direct student service must receive staff development within 30 calendar days of providing instructional services shall be approved before the individual provides any instructional services.

Language referring to exemptions for qualifications, which previously required Commission approval when an entity submitted its application for funding, has been removed from current §805.21(6).

New §805.21(7) is added to specify that staff providing support services or college and career transitional support who are paid through an AEL grant shall receive at least three clock hours of professional development each program year.

New §805.21(8) is added to specify that AEL staff assigned test proctoring or data entry duties shall receive at least three clock hours of professional development related to their primary job duties each program year.

Current §805.21(6) is renumbered as new §805.21(9) and modified to remove the word "in-service" and replace the term "local programs" with "grant recipients." The definition of "exceptional circumstances" is added to include absence from the program or work due to personal health reasons or emergency familial responsibilities, including maternity/paternity. Language is changed to specify that documents justifying these circumstances shall be available for monitoring and as requested by AEL staff. Language requiring exemptions to be submitted to the Commission for approval in cases of exemptions for minimum qualifications is removed.

Current §805.21(7) is renumbered as new §805.21(10), and "fiscal agent" is replaced with "grant recipient."

Current §805.21(8) is removed.

**Comment:** One commenter commended the removal of six hours of preliminary professional development and reduction from 24 hours of staff development requirements for new hires.

**Response:** The Commission appreciates the comment.

**Comment:** One commenter requested that volunteer instructional staff be waived from the current staff development requirements.

**Response:** The Commission appreciates the comment, but in order to maintain quality of AEL instruction for all participants, retains this requirement for any individual who acquires contact hours with participants. Local programs have the option to not count the contact hours acquired by volunteer staff, which would remove these requirements, or to request a staff exemption if the staff development time creates an undue burden.

**Comment:** One commenter requested that the requirement for all staff to yearly receive three hours of staff development in principles of adult learning be waived for returning teachers, new staff, or staff with a college degree in the content area.

**Response:** The Commission appreciates the comment, but retains this requirement. Principles of adult learning is a general concept, not a

specific course, and can cover a wide array of topics necessary for individuals providing adult education instruction to implement meaningful andragogy to ensure success for program participants, including new staff orientation, if that orientation focuses on successful instruction to adults. Local programs are encouraged to explore the wide array of topics that fall within this concept area in order to keep material fresh and timely. Agency professional development contractors are aligning training courses to identify courses that address topics in principles of adult learning.

**Comment:** One commenter requested clarification for the requirements for instructional staff, including the allowability to use staff development for goal setting as well as staff development provided by local independent school districts (ISDs) to meet staff development requirements.

**Response:** The Commission clarifies that staff development should be customized to meet local needs and objectives, as well as AEL objectives, and if goal setting, as well as staff development provided by local ISDs, meets those objectives, it can be used to meet staff development requirements for staff members.

**Comment:** One commenter requested clarification for the requirements for literacy instructional staff to waive content-area professional development if they have earned college-level credit in their instructional content area, and whether there is an expiration for these requirements.

**Response:** The Commission clarifies that waivers for literacy instructional staff who waive content-area professional development through college-level credit in their literacy instructional content area are permanent; however, the Commission encourages local programs to assess individual instructors' skills and abilities and use local flexibility to require skill refreshers as needed.

**COMMENTS WERE RECEIVED FROM:**

Angie Kaldro, Education Service Center 6  
Jon Engel, Community Action, Inc.  
Resa Wingfield, Literacy Council of Tyler

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

The rules are adopted under Texas Labor Code §301.0015 and §302.002(d), which provide the Texas Workforce Commission with the authority to adopt, amend, or repeal

such rules as it deems necessary for the effective administration of Agency services and activities.

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

## CHAPTER 805. ADULT EDUCATION AND LITERACY

### SUBCHAPTER A. GENERAL PROVISIONS

#### §805.2. Definitions.

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

- (1) Adult education--Basic and secondary instruction and services for adults.
  - (A) Adult basic education (ABE)--Instruction in reading, writing, and speaking and comprehending English, and solving quantitative problems, including functional context, designed for adults who:
    - (i) have minimal competence in reading, writing, and solving quantitative problems;
    - (ii) are not sufficiently competent to speak, read, or write the English language; or
    - (iii) are not sufficiently competent to meet the requirements of adult life in the United States, including employment commensurate with the adult's real ability.
  - (B) Adult secondary education (ASE)--Comprehensive secondary instruction below the college credit level in reading, writing and literature, mathematics, science, and social studies, including functional context, and instruction for adults who do not have a high school diploma or its equivalent.
  - (C) English literacy education (EL)--Instruction designed to help adults with limited English proficiency achieve competence in the English language.
- (2) AEL consortium--A partnership of educational, workforce development, social service entities, and other public and private organizations that agree to partner, collaborate, plan, and apply for funding to provide AEL and related support services. Consortium members shall include an AEL grant recipient, AEL fiscal agent, an AEL lead organization of a consortium, and AEL service provider(s). Consortium members may serve in one or more of the functions in accordance with state statutes and Commission rules.

- (3) AEL fiscal agent--An entity that is assigned financial management duties as outlined in an Agency-AEL contract or is assigned this function as a member of an AEL consortium.
- (4) AEL grant recipient--An eligible grant recipient within a local workforce development area (workforce area), as defined in §800.2(11) of this title, that is awarded AEL funds by the Agency.

The AEL grant recipient also may act as an AEL lead organization of a consortium, AEL fiscal agent, or AEL service provider as designated in an agreement with an AEL consortium.

- (5) AEL lead organization of a consortium--An organization designated as the AEL consortium manager in a written agreement between AEL consortium members.

The AEL lead organization of a consortium is responsible for planning and leadership responsibilities as outlined in the written agreement and also may serve as an AEL grant recipient, AEL fiscal agent, or AEL service provider.

If a consortium does not identify the lead organization of a consortium through a written agreement, the AEL grant recipient will be presumed to assume the responsibility of the lead organization of the consortium.

- (6) AEL service provider--An entity that is eligible to provide AEL services as specified in 20 USC §9202 and Texas Labor Code §315.003.

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

(8) Clock hour--60 minutes.

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

(10) ~~(7)~~ Contact time--The cumulative sum of minutes during which an eligible adult student receives instructional, counseling, or assessment services by a staff member supported by federal and state AEL funds as documented by local attendance and reporting records.

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

(B) A student contact hour is 60 minutes.

(11) ~~(8)~~ Eligible grant recipient--An entity, as specified in state and federal law, that is eligible to receive AEL program funding. Eligible grant recipients include:

(A) a local educational agency;

(B) a community-based organization of demonstrated effectiveness;

(C) a volunteer literacy organization of demonstrated effectiveness;

(D) an institution of higher education;

(E) a public or private nonprofit agency;

(F) a library;

(G) a public housing authority;

(H) a nonprofit institution that is not described in any of subparagraphs (A) - (G) of this paragraph and has the ability to provide literacy services to adults and families; and

(I) a consortium of the agencies, organizations, institutions, libraries, or authorities described in any of subparagraphs (A) - (H) of this paragraph.

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

(13) Principles of adult learning--A wide variety of research-based professional development topics that include instructional and advising

characteristics specific to adults, and support the range of knowledge, skills, and abilities adults need to understand and use information, express themselves, act independently, effectively manage a changing world, and meet goals and objectives related to career, family, and community participation. Instructional principles include, but are not limited to, engaging adults and customizing instruction on subjects that have immediate relevance to their career and personal goals and objectives, building on their prior knowledge and experience, and supporting them in taking responsibility for their learning.

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

(15) Professional development--Encompasses all types of facilitated learning activities for instructors and staff of AEL programs and organizations participating in AEL programs and services. Professional development can be face-to-face or virtual and can be a workshop, lecture, presentation, poster session, roundtable discussion, study circle, or demonstration that meets for a minimum of one hour and upwards in increments of one half (.5) hour (i.e., the hours assigned for purposes of tracking AEL staff professional development requirements in TEAMS, the Texas Educating Adults Management System) to accomplish a predetermined educational or learning outcome.

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

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

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

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

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

(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.

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

- (a) Federal AEL funds may be used for AEL programs for out-of-school 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) lack sufficient mastery of basic educational skills to enable the individuals to function effectively in society;
  - (2) do not have a secondary school diploma or its recognized equivalent, and have not achieved an equivalent level of education; or
  - (3) are unable to speak, read, or write the English language.
- (b) State AEL funds are to be used for AEL programs for out-of-school individuals who are beyond the compulsory age of attendance **have attained 19 18 years of age** unless specifically exempted from compulsory school attendance by Texas Education Code §25.086 and:

- (1) lack sufficient mastery of basic educational skills to enable the individuals to function effectively in society;
  - (2) do not have a secondary school diploma or its recognized equivalent, and have not achieved an equivalent level of education; or
  - (3) are unable to speak, read, or write the English language.
- (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 section, shall not exceed the grant recipient's percentage of federal funds to the total allocation.
- (d) The Commission shall establish annual performance benchmarks for the use of AEL funds in serving specific student populations, including the population of students receiving other workforce services or coenrolled in postsecondary education or training.

## SUBCHAPTER B. STAFF QUALIFICATIONS

### §805.21. Staff Qualifications and Training.

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

- ~~(1) All staff shall receive at least 12 clock hours of professional development annually.~~
- ~~(2) All staff new to AEL and assigned assessment and instructional duties shall receive six clock hours of in-service professional development before they begin work in assessment and instructional activities, in addition to the annual professional development requirements set forth in paragraph (1) of this section.~~
- (1)(3) AEL Aides, administrative, data entry, proctoring staff, and staff providing support or employment services to students shall have at least a high school diploma or high school equivalency certificate.
- (2)(4) AEL Directors, ~~teachers, counselors, and~~ supervisors, staff who that oversees program assessment services and/or overall program accountability, and instructors in the content areas of reading, writing, mathematics, and English language acquisition, including substitutes, shall possess at least a bachelor's degree.

- (3) Workforce training instructors must meet the requirements of the institution and/or the associated accrediting or credentialing entity, if applicable.
- (4) Requests for exemptions for staff qualification requirements in individual cases:
- (A) may be submitted to the Agency for approval with a justification outlining extenuating circumstances; and
- (B) ~~must~~ shall be submitted and approved prior to an individual being placed in the position in question.
- (5) All AEL ~~D~~directors, ~~teachers, counselors,~~ and supervisors, and other staff with program oversight or coordination responsibilities ~~without valid Texas teacher certification~~ shall ~~attend~~ receive ~~12-15~~ clock hours of ~~in-service~~ professional development each program year with the following exception: annually, in addition to that specified in paragraph (2) of this section, until they have completed either six clock hours of AEL college credit or attained two years of AEL experience.
- Staff hired on or after January 1 of a program year, may require half of the professional development time required for that program year.
- (6) All AEL instructional staff, except substitutes, paid with AEL grant funds or who acquire student contact hours, including volunteers, shall receive at least 15 clock hours of professional development each program year, with the following specifications:
- (A) Instructors in the content areas of reading, writing, mathematics, and English language acquisition shall:
- (i) receive three clock hours of training in principles of adult learning;
- (ii) receive six clock hours in relevant areas of literacy instruction; and
- (iii) receive the remaining six clock hours of training in content areas at the discretion of the program, but consisting of content related to the AEL program's purpose, which is to provide adults with sufficient basic education that enables them to effectively;

I. acquire the basic educational skills necessary for literate functioning;

II. participate in job training and retraining programs;

III. obtain and retain employment; and

IV. continue their education to at least the level of secondary school completion and postsecondary education preparation; or

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

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

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

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

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

(9)(6) –The requirements for ~~in-service~~ professional development may be reduced by ~~local programs~~ grant recipients in individual cases ~~where in~~

which exceptional circumstances prevent employees from completing the required hours of ~~in-service~~ professional development. Exceptional circumstances can include absence from the program or work due to personal health reasons or emergency familial responsibilities, including maternity/paternity. Documentation justifying these circumstances shall be ~~maintained. Requests for exemption from staff qualification requirements in individual cases may be submitted to the Commission for approval in the application for funding and shall include justification and proposed qualifications~~available for monitoring and as requested by AEL staff.

~~(10)~~(7) —Records of staff qualifications and professional development shall be maintained by each ~~fiscal agent~~grant recipient and shall be available for monitoring.

~~(8)~~ —The requirements in paragraphs (1) —(6) of this section also apply to ~~volunteers who generate student contact time, as defined in §805.2, which is accrued by the AEL program and reported to the Commission for funding purposes.~~