

PART XX. Texas Workforce Commission

CHAPTER 837. Apprenticeship Training

The Texas Workforce Commission proposes new §§837.1, 837.2, 837.21, 837.22, 837.41-837.44, 837.61-837.65, 837.81-837.85, 837.100, 837.101, and 837.121-837.125, concerning the operation of the Apprenticeship Training program.

New Subchapter A concerns the General Purpose and Definitions.

New §837.1 of Subchapter A, Scope and Purpose, states that these rules are to implement and interpret the requirements of Texas Education Code, Chapter 133. New §837.2 defines words and terms used in these rules.

New Subchapter B concerns the federal requirements for apprenticeship training.

New §837.21 states that all apprenticeship training programs must be registered with the U.S. Department of Labor, Bureau of Apprenticeship Training.

New §837.22 states that apprenticeship training programs must comply with equality of opportunity procedures set forth in the federal regulations. New Subchapter C concerns the funding notice and application process.

New §837.41 sets forth the procedure for providing annual notice of available funds, states that the annual notice will include the annual funding formula, and states the method for determining the contact-hour rate.

New §837.42 sets forth the procedure for submitting funding applications to the Texas Workforce Commission.

New §837.43 describes the two-step allocation process, consisting of Planning Allocations and Final Allocations.

New §837.44 describes the procedure for submitting contract amendments. New Subchapter D concerns the qualifications for funding.

New §837.61 describes the eligible applicants.

New §837.62 sets forth the priority for allocating funds.

New §837.63 describes the funding qualifications for all apprenticeship training programs.

New §837.64 describes the funding qualifications for related instruction classes.

New §837.65 describes the funding qualifications for supplementary instruction classes.

New Subchapter E concerns the use of funds and account maintenance.

New §837.81 describes allowable expenditures.

New §837.82 sets forth cost categories.

New §837.83 lists various funding limitations.

New §837.84 describes allowable travel expenses.

New §837.85 sets forth the procedure for maintenance of accounts.

New Subchapter F concerns compliance monitoring.

New §837.100 provides for state monitoring of apprenticeship training programs.

New §837.101 provides for corrective action for failure to comply with applicable laws, regulations, guidelines and policies.

New Subchapter G concerns reporting requirements.

New §837.121 requires an apprenticeship training class organization report for related instruction.

New §837.122 requires an apprenticeship training class organization report for supplementary instruction.

New §837.123 requires expenditure reports.

New §837.124 requires closeout reports.

New §837.125 requires annual performance reports.

Randy Townsend, Director of Finance, has determined that for the first five-year period the rules are in effect, there will be minimal fiscal implications as a result of enforcing or administering the rules, beyond the legislative appropriation establishing the fund. There will be minimal additional costs to the state as a result of enforcing the rules. There will be no reduction in

costs to the state. There will be no costs to local governments other than those attendant to obtaining a grant.

Alan D. Miller, Director of Workforce Development, has determined that for each year of the first five years the rules are in effect, the public benefit anticipated as a result of enforcing the rules will be the enhancement of the ability of local education agencies to sponsor apprenticeship training programs in cooperation with local apprenticeship committees.

The effect on small businesses is that previous written policies and guidelines have been restated as rules for clarity and conciseness. There are no anticipated costs to persons who are required to comply with the rules as proposed.

Comments on the proposal may be submitted to Diane Lamb, Apprenticeship Coordinator, Texas Workforce Commission, 101 East 15th Street, Room 248-T, Austin, Texas 78778; fax (512) 305-9640; or e-mail dlamb@twc.state.tx.us.

#### SUBCHAPTER A. General Purpose and Definitions

##### 40 TAC §837.1, §837.2

The new rules are proposed under Texas Labor Code, Section 301.061 which provides the Texas Workforce Commission with the authority to adopt such rules as it deems necessary for the effective administration of the Act.

Texas Labor Code, Chapter 302 and Texas Education Code, Chapter 133 will be affected by this proposal.

##### §837.1. Scope and Purpose.

The purpose of these rules is to implement the provisions of Texas Education Code, Chapter 133, related to state-funded apprenticeship training programs. These rules may be cited as the Apprenticeship Training Rules.

##### §837.2. Definitions.

In addition to the definitions relating to apprenticeship training found in Texas Education Code, §133.001, and in 29 C.F.R. §29.2, the following words and terms when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise.

(1) Administrator's Guide for Apprenticeship Training Programs -- An informational supplement to the Apprenticeship Training Rules, referred to in this chapter as "the Administrator's Guide." The Administrator's Guide is issued annually by the Texas Workforce Commission and provides relevant dates and sample application forms with instructions useful in planning and submitting an application for Apprenticeship Training Program funding. The Administrator's Guide may be obtained from the Texas Workforce Commission, Apprenticeship Training, 101 East 15th Street, Austin, Texas 78778-0001.

(2) Apprentice -- A full-time paid worker, at least 16 years of age except where a higher minimum age standard is otherwise fixed by law, who is employed to learn a skilled trade under standards of apprenticeship established by the Bureau of Apprenticeship Training of the U.S. Department of Labor.

(3) Apprenticeship agreement -- A written agreement between an apprentice and either an employer or an apprenticeship committee acting as agent for employer(s), which contains the terms and conditions of the employment and training of the apprentice. The elements of an apprenticeship agreement are set forth at 29 C.F.R. §29.6, and a sample copy is available in the Administrator's Guide.

(4) Apprenticeship committee -- An autonomous local group consisting of members appointed by one or more employers of apprentices, or by one or more bargaining agents representing members of an apprenticeable trade, or a combination of the above. An apprenticeship committee is designated for each apprenticeship training program to establish instruction standards and goals for a particular craft or crafts, interview and select applicants, and monitor the program and

apprentices as described in Texas Education Code, §133.003.

(5) Apprenticeship training program -- A training program that provides on-the-job training, preparatory instruction, supplementary instruction, or related instruction in a trade that has been certified as an apprenticeable occupation by the Bureau of Apprenticeship Training of the U.S. Department of Labor. The program is a structured system of training designed to prepare individuals for occupations in skilled trades and crafts by combining training under the supervision of experienced journeymen with job-related classroom instruction.

(6) Bureau of Apprenticeship and Training -- The U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training.

(7) Commission -- The Texas Workforce Commission.

(8) Federal Regulations -- The U.S. Department of Labor standards for the registration of apprenticeship programs found in 29 C.F.R. Part 29.

(9) Sponsor -- Any public school district or state post-secondary institution, collectively referred to in this chapter as "local education agency", operating an apprenticeship program pursuant to a contract between the local education agency and an apprenticeship committee.

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

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J. Randel (Jerry) Hill

General Counsel

Texas Workforce Commission

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For further information, please call: (512) 463-8812

#### SUBCHAPTER B. Federal Requirements

40 TAC §837.21, §837.22

The new rules are proposed under Texas Labor Code, Section 301.061 which provides the Texas Workforce Commission with the authority to adopt such rules as it deems necessary for the effective administration of the Act.

Texas Labor Code, Chapter 302 and Texas Education Code, Chapter 133 will be affected by this proposal.

#### §837.21. Registration with the Bureau of Apprenticeship and Training.

(a) All apprenticeship training programs must be registered with the Bureau of Apprenticeship and Training to obtain acceptance and recording of such program as meeting the basic standards and requirements defined in 29 C.F.R. Part 29. Approval of an apprenticeship training program is evidenced by a Certificate of Registration issued by the Bureau of Apprenticeship and Training.

(b) All apprenticeship agreements must be registered with the Bureau of Apprenticeship and Training to obtain acceptance and recording of such agreement as evidence of the participation of the apprentice in a particular registered apprenticeship program.

#### §837.22. Equal Opportunity Standards.

Sponsors of apprenticeship training programs must comply with the procedures to promote equality of opportunity in registered apprenticeship programs as set forth in 29 C.F.R. Part 30.

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SUBCHAPTER C. Funding Notice and Application Process  
40 TAC §§837.41-837.44

The new rules are proposed under Texas Labor Code, Section 301.061 which provides the Texas Workforce Commission with the authority to adopt such rules as it deems necessary for the effective administration of the Act. Texas Labor Code, Chapter 302 and Texas Education Code, Chapter 133 will be affected by this proposal.

§837.41. Notice of Available Funds.

(a) The Commission, upon the recommendation of the Texas Council on Workforce and Economic Competitiveness, shall provide annual notice, through publication in the Texas Register, to all potential program sponsors of the amount of funds available to support apprenticeship training programs for the prospective fiscal year. The Apprenticeship Training Program's fiscal year starts on September 1 and ends on August 31 of each year.

(b) The notice shall also include the annual funding formula for the prospective fiscal year, consisting of the contact-hour rate, the percentage of funds available for new programs or established programs not currently receiving funds, and any funds set aside for other funding purposes.

(c) The contact-hour rate is the method used to distribute apprenticeship training funds to local education agencies that sponsor apprenticeship training programs. The contact-hour rate is determined by the statewide total number of contact hours of apprenticeship training instruction classes divided into the amount of available funds.

§837.42. Applications.

(a) Local education agencies shall mail or hand deliver an original and one copy of the Commission's application forms to the Texas Workforce Commission, Apprenticeship Training Program, 101 East 15th Street, Austin, TX 78778-0001.

(b) Faxed copies of the original application will not be accepted.

(c) The Commission shall notify the local education agency of the application/contract approval, and shall assign a contract number to be used by the local education agency in all correspondence with the Commission.

§837.43. Funding Allocation Process.

(a) Funds are distributed to the eligible local education agencies by the Commission in a two-step allocation process, consisting of Planning Allocations and Final Allocations.

(b) Planning Allocations.

(1) All local education agencies shall submit to the Commission their estimated contact hours of job-related instruction classes for the prospective fiscal year. The estimated contact hours are determined by the number of registered apprentices anticipated to enroll in a class, multiplied by the number of hours that the class will be conducted during the year.

(2) The Commission, after determining the preliminary contact-hour rate for each local education agency, shall notify all local education agencies of the planning allocations for the prospective fiscal year based on the preliminary contact-hour rate. This rate is determined by the statewide total estimated contact hours of job-related instruction classes divided into the amount of funds available to the Commission.

(3) The planning allocation is a temporary budget. The budget for each local education agency will be finalized based on the final allocation of funds as provided in subsection (c) of this section.

(c) Final Allocations.

(1) Each local education agency shall report the actual contact hours of job-related instruction classes (number of apprentices and number of class hours) to the Commission for determination of the final contact-hour rate for the final allocations of funds.

(2) The Commission shall notify each local education agency of the current year final allocations based on the final contact-hour rate.

(3) If sufficient funds are available after the final allocations for job-related instruction classes are determined, these funds may be allocated for supplementary (journeymen) instruction classes.

#### §837.44. Contract Amendments.

(a) Each local education agency must submit a contract amendment to the Commission that reflects the final allocation for job-related instruction classes as calculated from the approved number of actual contact hours of each class. If funds are allocated for supplementary (journeymen) instruction, contract amendments must also incorporate these funds (the approved number of estimated contact hours for journeymen instruction).

(b) A final contract amendment is also required from each local education agency that receives an allocation for supplementary (journeymen) instruction classes.

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

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#### SUBCHAPTER D. Funding Qualifications

##### 40 TAC §§837.61-837.65

The new rules are proposed under Texas Labor Code, § 301.061 which provides the Texas Workforce Commission with the authority to adopt such rules as it deems necessary for the effective administration of the Act.

Texas Labor Code, Chapter 302 and Texas Education Code, Chapter 133 will be affected by this proposal.

#### §837.61. Eligible Applicants.

(a) Entities eligible to apply to the Commission for apprenticeship training funding are public school districts and public post-secondary institutions.

(b) Approved local education agencies shall be the fiscal agents for the funds and are subject to the audit procedures described in Texas Education Code, §133.005. Approved local education agencies shall subcontract with the local apprenticeship committee of a registered apprenticeship training program to fund job-related classroom instruction.

#### §837.62. Priority for Allocating Funds.

The purpose of the Apprenticeship Training funds is to supplement the costs of the job-related classroom instruction of eligible registered apprenticeship training programs. Funds for apprenticeship training instruction classes are allocated on the following priority:

(1) related instruction, or "Apprenticeship", classes that consist of organized, off-the-job instruction in theoretical or technical subjects required for the completion of an apprenticeship program for a particular apprenticeable trade;

(2) supplementary instruction, or "Journeymen", classes that consist of

instruction designed to provide new skills or upgrade current skills for persons employed as journeymen craftsmen in apprenticeable trades; and,  
(3) preparatory instruction classes consisting of instruction lasting six months or less that teach the basic skills required for an individual to comply with the terms of the individual's apprenticeship agreement.

§837.63. Funding Qualifications for all Apprenticeship Training Programs. Each apprenticeship training program must meet the following eligibility requirements to qualify for funding:

- (1) be sponsored by a public school district or a state post-secondary institution pursuant to a contract between the district or institution and an apprenticeship committee;
- (2) be certified and registered by the Bureau of Apprenticeship and Training no later than August 1 (one month) prior to the applicable program year;
- (3) provide the local education agency with a validated copy of their written, national standards as approved by the Bureau of Apprenticeship and Training (or where national standards do not exist, individual program standards approved by the Bureau); and
- (4) comply with Commission regulations as stated in Texas Education Code, Chapter 133 and the Administrator's Guide.

§837.64. Funding Qualifications for a Related Instruction (Apprentice) Class. The following additional eligibility requirements must be met for an apprenticeship training program to qualify for the funding of a related instruction (apprenticeship) class:

- (1) Each apprentice of the specific occupation of the program must:
  - (A) be a full-time employee in the private sector in Texas;
  - (B) be registered with the Bureau of Apprenticeship and Training on or before September 1 of the applicable program year;
  - (C) receive related instruction concurrently with on-the-job training; and
  - (D) be physically present on the official third class meeting, or both the second and fourth class meetings, as evidenced by the physical presence of the authorized local education agency administrator.
- (2) Each job-related instruction class for the applicable program year must begin on or after September 1, conduct the fourth class meeting no later than the first Saturday in October, and end on or before August 31.
- (3) Only registered apprentices are allowed to attend a related (apprentice) instruction class. The class will be disallowed for funding for the entire year if anyone else attends the class. The local education agency will reimburse the Commission for any disallowed funding.
- (4) The number of approved related instruction hours per class per year must be certified by the Bureau of Apprenticeship and Training.
- (5) The number of estimated contact hours and the number of actual contact hours of the apprenticeship training instruction classes must be submitted by the local education agency and received by the Commission on or before the respective due dates as stated in the Administrator's Guide.

§837.65. Qualifications for Funding a Supplementary Instruction (Journeymen) Class.

Supplementary instruction classes will be funded if eligible and if funds are available after final allocations to related instruction classes. The following eligibility requirements must be met for an apprenticeship training program to qualify for the funding of a supplementary instruction (journeymen) class:

- (1) Each supplementary instruction class shall be for skill upgrading directly related to the trade of the sponsoring organization/association with tasks or skills performed at the journeymen level; not to exceed forty-eight hours of instruction.

(2) Each supplementary instruction class shall maintain an accurate attendance roster listing every person who attends the class and their attendance.

(3) Only journeymen who are employed in Texas by members of the support organization/association are allowed to attend supplementary instruction classes. The class will be disallowed for funding if anyone else attends the class.

(4) For additional background and supplementary information on supplementary instruction classes, see the Administrator's Guide.

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

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#### SUBCHAPTER E. Use of Funds and Account Maintenance

##### 40 TAC §§837.81-837.85

The new rules are proposed under Texas Labor Code, Section 301.061 which provides the Texas Workforce Commission with the authority to adopt such rules as it deems necessary for the effective administration of the Act.

Texas Labor Code, Chapter 302 and Texas Education Code, Chapter 133 will be affected by this proposal.

##### §837.81. Allowable Expenditures.

Apprenticeship training funds are used to supplement the cost of instructor salaries, instructional supplies and materials, instructional equipment, other operating expenses, and administration costs incurred by the local education agency. Each budget item requested must be an allowable expenditure under the authorizing program statutes, regulations, and guidelines.

##### §837.82. Cost Categories.

Costs are divided into two main categories, administrative and instructional.

(1) Administrative. Costs that are allowable, necessary and reasonable incurred by the local education agency to properly administer and manage the funds, such as local education agency supervisors and administrative supplies.

Administrative costs may not exceed 15% of the total contract.

(2) Instructional. Costs that are allowable, necessary and reasonable for the apprenticeship training program to properly conduct the job-related instruction class, such as instructors' salaries and instructional supplies.

##### §837.83. Funding Limitations.

(a) All encumbrances and expenditures of funds approved in the application shall occur on or after the effective date of an executed contract between the Commission and a local education agency.

(b) The local education agency shall only include as costs or expenditures all goods that have been received and all services rendered by the ending date of the contract.

(c) Indirect costs may not be charged to this program.

(d) No more than fifteen per cent (15%) of the state appropriated funds may be used by the local education agency for administrative purposes.

(e) Only the approved number of related instruction hours per class are funded.

(f) An apprenticeship training program is not eligible for funding with Chapter 133 funds with the Commission if:

(1) it is classified as a municipality, state, or federally sponsored program;

(2) the local education agency charges the apprentice tuition or fees other than an administrative fee to cover costs of processing the apprentice's records which shall not exceed \$5 for each course in which the apprentice is enrolled; or

(3) the job-related instruction class receives funds from another government funding source, such as the Texas Higher Education Coordinating Board.

(g) Apprenticeship training funds shall not be allowed for:

(1) curriculum development or class preparation;

(2) teacher retirement matching on salaries funded with state General Revenue funds;

(3) furniture, such as student desks, folding tables, and chairs;

(4) costs of remodeling buildings or facilities;

(5) rental cost of publicly-owned space; or

(6) food costs.

#### §837.84. Allowable Travel Expenses.

Amounts authorized for maximum recovery for travel and per diem costs against this funding source are restricted to those amounts which are approved in the State of Texas Appropriations Act in effect for the particular funding period.

#### §837.85. Maintenance of Accounts.

(a) Each local education agency shall maintain records on all expenditures, and shall use budgeting, accounting, and auditing procedures in accordance with the provisions of the Texas Workforce Commission Financial Manual for Grants and Contracts.

(b) Such local education agency budgeting, accounting and auditing procedures must assure that:

(1) contracts are accounted for with the modified accrual method;

(2) an encumbrance method of budgetary control is included in the accounting system; and

(3) contracts are accounted for on an individual project basis by budget function, cost category, cost subcategory, and year of entitlement.

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

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#### SUBCHAPTER F. Compliance Monitoring

40 TAC §837.100, §837.101

The new rules are proposed under Texas Labor Code, §301.061 which provides the Texas Workforce Commission with the authority to adopt such rules as it deems necessary for the effective administration of the Act. Texas Labor Code, Chapter 302 and Texas Education Code, Chapter 133 will be affected by this proposal.

#### §837.100. State Monitoring.

The Commission will monitor apprenticeship training programs for compliance with applicable laws, regulations, guidelines, and policies, as well as for effectiveness. The Commission may conduct on-site visits in accordance with a monitoring instrument, which will be available to the local education agencies for prior review. Unannounced visits may be made at the discretion of the Commission.

§837.101. Corrective Action.

Failure to comply with applicable laws, regulations, guidelines, and policies may result in corrective action, which shall include technical assistance and may lead to withdrawal of funds at the Commission's discretion.

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

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SUBCHAPTER G. Reporting Requirements

40 TAC §§837.121-837.125

The new rules are proposed under Texas Labor Code, Section 301.061 which provides the Texas Workforce Commission with the authority to adopt such rules as it deems necessary for the effective administration of the Act.

Texas Labor Code, Chapter 302 and Texas Education Code, Chapter 133 will be affected by this proposal.

§837.121. Apprenticeship Training Class Organization Report for Related Instruction.

(a) The required Apprenticeship Training Class Organization Report for Related (Apprentice) Instruction classes shall be furnished to the local education agency by the Commission.

(b) The purposes of the form are to verify the number of actual contact hours of each job-related instruction class; determine the final contact-hour rate for final allocations of funds; and assist the Commission in maintaining a clear audit trail. Both the apprenticeship training program director (or designee) and the authorized local education agency administrator who sign the Apprenticeship Training Class Organization Report will be held accountable for accurate information.

§837.122. Class Organization Report for Supplementary (Journeyman) Instruction.

(a) The required Apprenticeship Training Class Organization Report for Supplementary (Journeyman) Instruction Classes shall be furnished to the local education agency by the Commission.

(b) The purposes of the form are to verify the number of actual contact hours of the supplementary instruction class, and to determine the final approval of funds for each class based on the number of actual contact hours of the class. Both the apprenticeship training program director (or designee) and the authorized local education agency administrator who sign the form will be held accountable for accurate information.

§837.123. Expenditure Reports.

The local education agency will receive the appropriate expenditure report form(s) from the Commission after the application/contract is approved.

§837.124. Closeout Report.

No more than thirty (30) days following the end of the contract period of performance, the local education agency must submit to the Commission a Closeout Report detailing allowable expenditures incurred during the contract period.

Such reports shall be prepared using the appropriate Commission forms with

supporting documentation as the Commission may prescribe.

§837.125. Annual Performance Report.

Each apprenticeship training program is responsible for providing information for the Annual Performance Report that is required 30 days after the ending date of the project. The Annual Performance Report form shall be prepared using the appropriate forms supplied by the Commission.

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

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