

1 **CHAPTER 849. EMPLOYMENT AND TRAINING SERVICES FOR DISLOCATED**
2 **WORKERS ELIGIBLE FOR TRADE BENEFITS**

3
4 **ADOPTED RULES WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS***
5 ***REGISTER*. THIS DOCUMENT WILL HAVE NO SUBSTANTIVE CHANGES BUT IS**
6 **SUBJECT TO FORMATTING CHANGES AS REQUIRED BY THE *TEXAS REGISTER*.**
7

8 ON DECEMBER 23, 2014, THE TEXAS WORKFORCE COMMISSION ADOPTED THE
9 BELOW RULES WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS REGISTER*.

10
11 Estimated date of publication in the *Texas Register*: **January 9, 2015**

12 The rules will take effect: **January 12, 2015**

13
14 The Texas Workforce Commission (Commission) adopts amendments to the following sections
15 of Chapter 849, relating to Employment and Training Services for Dislocated Workers Eligible
16 for Trade Benefits, *without* changes, as published in the October 10, 2014, issue of the *Texas*
17 *Register* (39 TexReg 8065):

18
19 Subchapter A. General Provisions, §§849.1 - 849.3

20 Subchapter B. Trade Services Responsibilities, §849.11 and §849.12

21 Subchapter C. Trade Services, §849.21 and §849.22
22

23 The Commission adopts amendments to the following section of Chapter 849, relating to
24 Employment and Training Services for Dislocated Workers Eligible for Trade Benefits, *with*
25 changes, as published in the October 10, 2014, issue of the *Texas Register* (39 TexReg 8065):

26
27 Subchapter C. Trade Services, §849.23
28

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

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

32
33 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**

34 The purpose of the adopted Chapter 849 rule change is to align changes to the Trade Adjustment
35 Assistance (TAA) program statutes, Agency operations, and program requirements.

36
37 TAA is a federal program that provides a path for employment growth and opportunity through
38 aid to workers who have lost their jobs as a result of foreign trade. The TAA program seeks to
39 provide these trade-affected workers with opportunities to obtain the skills, resources, and
40 support they need to become reemployed.

41
42 TAA offers a variety of benefits and services to support workers in their search for
43 reemployment. This includes job training, job search and relocation allowances, and income
44 support. The Commission's workforce partners administer these services using federal funds.
45

1 The Trade Act of 1974 has been amended numerous times since its enactment in January 1975
2 and has continued to evolve. The benefits and services available to adversely affected workers
3 depend on which of the following versions of the Trade Act a worker is certified under:

- 4
- 5 --Trade Adjustment Assistance Reform Act of 2002: reauthorized the TAA program through
6 Fiscal Year 2007;
- 7 --Trade and Globalization Adjustment Assistance Act (TGAAA) of 2009: overhauled the TAA
8 program and expanded TAA coverage to more workers and firms in the service sector, and
9 expanded workers' opportunities for training, health insurance coverage, and reemployment;
- 10 --Omnibus Trade Act of 2011: extended the TGAAA of 2009 amendments for six weeks;
- 11 --Trade Adjustment Assistance Extension Act (TAAEA) of 2011: changed the group eligibility
12 requirements and individual benefits and services available under TAA for some workers; and
- 13 --Reversion 2014: the sunset provisions of the TAAEA, effective January 1, 2014, which largely
14 revert the TAA program to the provisions of the 2002 amendments with some provisions
15 carried forward from the 2011 TAAEA.

16

17 Rule revisions are needed to implement the changes regarding program requirements, individual
18 benefits, and services available.

19

20 To ensure appropriate delivery of services, amendments are necessary to address statutory
21 changes and clarify operational and procedural guidance. These changes include moving
22 functions from the state level to the Board level that update roles and responsibilities as well as
23 better defining the responsibilities of participants.

24

25 The intent of these amendments is to provide maximum flexibility for the Boards, ensure
26 compliance with laws and regulations, and integrate and align the Trade program requirements
27 with other workforce programs.

28

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

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

32

33 **SUBCHAPTER A. GENERAL PROVISIONS**

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

35

36 **§849.1. Purpose**

37 Section 849.1(a)(2), regarding the laws under which coordination and integration of services to
38 dislocated workers are conducted, adds reference to the Trade Act, including the federal statutes
39 relating to the Trade Act of 1974.

40

41 Section 849.1(a)(4), referencing the Trade Act and the federal statutes relating to the Trade Act
42 of 1974, is removed.

43

44 **§849.2. Definitions**

45 Section 849.2(1), the definition of "Alternative Trade Adjustment Assistance for Older Workers"
46 (ATAA):

1 --adds Reemployment Trade Adjustment Assistance (RTAA), which is similar to the ATAA
2 benefit. The availability of RTAA depends on the Trade law under which the US Department of
3 Labor (DOL) issues a Trade certification. Both ATAA and RTAA provide a subsidy for older
4 workers who secure subsequent employment; and

5 --removes reference to the requirement that new employment must be within 26 weeks of
6 separation because eligibility standards for ATAA and RTAA are different.
7

8 New §849.2(2) defines "benchmarking," as a process established by the Trade Adjustment
9 Extension Act of 2011 (TAAEA) to ensure worker success by monitoring workers' academic
10 status and progress in training. Benchmarking is conducted no less often than once every sixty
11 (60) days and designed to monitor and ensure the worker progresses toward completing the
12 approved training based on:

13 --maintaining satisfactory academic standing; and

14 --staying on schedule to complete training within the time frame identified in the approved
15 training plan.
16

17 New §849.2(5), the definition of "HCTC--Health Coverage Tax Credit," is removed. HCTC
18 expired January 1, 2014; TAA participants will no longer receive HCTC to assist them in paying
19 their health coverage premiums.
20

21 New §849.2(6), the definition of "Individual Employment Plan," is removed.
22

23 New §849.2(6) defines "job search allowance" as a cash benefit provided to Trade-certified
24 workers to support out-of-area job search when suitable employment is not available within the
25 Commission-established local commuting area. Trade-certified workers receive a job search
26 allowance as a benefit to support out-of-area job search.
27

28 New §849.2(8) defines "relocation allowance," as a cash benefit provided to a Trade-certified worker to
29 support relocation of the worker's household and family when suitable employment is not available to the
30 worker within the Commission-established local commuting area and relocation is necessary to secure
31 suitable employment.
32

33 New §849.2(9) defines "Reemployment and Training Plan" (REP), as an employability development plan
34 and service strategy that identifies the results of a comprehensive and objective assessment of the
35 participant's knowledge, skills, abilities, and interests; employment goals; a description of training services;
36 the appropriate combination of services for the participant to achieve employment goals and objectives;
37 and the benchmarks for successful completion of the plan.
38

39 New §849.2(10) clarifies the definition of "suitable employment" by removing "prior to a referral to Trade-
40 approved training." Suitable employment is any employment that meets the requirements of 19 United
41 States Code (USC) §2296 and results in work of a substantially equal or higher skill level as compared to
42 the worker's past adversely affected employment with wages of not less than 80 percent of the worker's
43 average weekly wage.
44

45 New §849.2(11) amends the definition of "Trade Act" to clarify that the Trade Act of 1974, as amended,
46 includes the Trade Adjustment Assistance Reform Act of 2002; the Trade and Globalization Adjustment

1 Assistance Act of 2009; the Omnibus Trade Act of 2010; the Trade Adjustment Assistance Extension Act
2 of 2011; and the sunset provisions of the Trade Adjustment Assistance Extension Act of 2011, referred to
3 as Reversion 2014.

4
5 New §849.2(17) amends the definition of "waiver of the training requirement" to specify that a waiver must
6 be approved by state merit staff. Only state merit staff can approve services and benefits for Trade-
7 certified workers.

8
9 Certain paragraphs have been renumbered to reflect additions.

10
11 **§849.3. Trade Service Strategy**

12 Section 849.3(b)(3) clarifies that training supported under the Trade Act may include demand
13 and targeted occupations as well as occupations in which there is a reasonable expectation of
14 employment.

15
16 Section 849.3(c) clarifies that coenrollment with Workforce Investment Act (WIA) services must not
17 interfere with the timely provision of TAA services.

18
19 Section 849.3(d)(1) - (5) is removed.

20
21 New §849.3(d)(1) - (12) retains the services previously located in §849.3(d)(1) - (5) and adds additional
22 services, set forth in the order they are provided. Boards must ensure that the following services are
23 provided to dislocated workers:

24 (1) Explanation of benefits and services available under the Trade Act, to include applicable
25 deadlines;

26 (2) Assessment of education, skills, and service needs;

27 (3) Information on training available locally and regionally, including information on how to
28 apply for financial aid supported under the Higher Education Act of 1965;

29 (4) Individual career counseling, including job search and placement counseling;

30 (5) Short-term prevocational services;

31 (6) Issuance of a waiver of the training requirement where suitable work is unavailable, training
32 is determined not to be feasible or appropriate, and the worker meets applicable eligibility
33 criteria;

34 (7) Development of an REP;

35 (8) Referral to training services where suitable employment is unavailable;

36 (9) Assistance in filing requests for job search and/or relocation allowances;

37 (10) Support services available under the WIA Title I dislocated worker program;

38 (11) Case management; and

39 (12) Follow-up services upon completion of training.

40
41 **SUBCHAPTER B. TRADE SERVICES RESPONSIBILITIES**

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

43
44 **§849.11. General Board Responsibilities**

45 Section 849.11(c)(4), relating to Boards' monitoring requirements, adds benchmarking as the
46 required means of ensuring progress toward goals and objectives.

1
2 Section 849.11(c)(5), the requirement that the Commission be notified if a participant drops out
3 of training, is removed because this is no longer a monitoring responsibility or requirement of the
4 Boards.

5
6 Certain paragraphs have been renumbered to reflect additions.
7

8 **§849.12. Participant Responsibilities**

9 Section 849.12(1) adds that, in addition to Unemployment Insurance, dislocated workers eligible
10 for Trade benefits must apply for Trade Readjustment Allowances (TRA).
11

12 Section 849.12(5) adds that dislocated workers eligible for Trade benefits are required to accept
13 a job offer "and/or retain employment," if the position meets the criteria for suitable
14 employment.
15

16 Section 849.12(7) specifies that dislocated workers eligible for Trade benefits are required to
17 "fully participate in Trade-approved training."
18

19 Section 849.12(8) specifies that dislocated workers eligible for Trade benefits are required to
20 notify the case manager prior to modifying coursework rather than within one week of having
21 dropped out.
22

23 New §849.12(9) requires dislocated workers eligible for Trade benefits to maintain a satisfactory
24 academic status and progress in training as stipulated in the REP.
25

26 Certain paragraphs have been renumbered to reflect additions.
27

28 **SUBCHAPTER C. TRADE SERVICES**

29 **The Commission adopts the following amendments to Subchapter C:**

30 **§849.21. Activities Prior to Certification of a Trade Petition**

31 Section 849.21(a) replaces the reference to "Texas Workforce Centers" with "Workforce
32 Solutions Offices" to clarify that Workforce Solutions Offices provide services.
33
34

35 Section 849.21(b) removes the reference to "in local workforce development areas."
36

37 Section 849.21(b)(3) specifies that when filing Trade petitions, Boards must ensure layoff
38 assistance is provided to companies, workers, and labor unions.
39

40 Section 849.21(6)(iii) removes the requirement to provide HCTC information during orientation
41 to Trade benefits. HCTC expired on January 1, 2014; therefore, TAA participants will no longer
42 receive HCTC to assist them in paying their health coverage premiums.
43

44 Section 849.21(6)(v)(I) - (III), the requirement to provide a signed waiver of training ensuring
45 eligibility for HCTC and other Trade benefits that have regulatory time limits, is removed.
46

1 Section 849.21(7) specifies that Boards must coordinate with the appropriate UI field specialist
2 when providing layoff assistance.

3
4 Certain clauses and subclauses have been renumbered to reflect additions.

5
6 **§849.22. Post Certification of a Trade Petition**

7 Section 849.22(a) sets forth in new paragraphs (1) and (2) that Boards must ensure that:

- 8 (1) Trade-certified workers referred to WIA intensive or training services are coenrolled in
9 WIA dislocated worker services, consistent with WIA eligibility criteria, the needs of the
10 worker, and a Board's policies and procedures; and
11 (2) the coenrollment of Trade-certified workers in WIA Title I dislocated worker services shall
12 not interfere with the timely provision of TAA services.

13
14 Section 849.22(b) clarifies that Boards must ensure trade-affected workers are provided WIA
15 intensive or training services and adds three additional criteria--described in new §849.22(b)(7) -
16 (9)--to be met and documented in the REP.

17
18 Section 849.22(b)(4) removes the requirement that training must be in the commuting area as
19 defined in the Texas Unemployment Compensation Act.

20
21 Section 849.22(b)(6) retains the provision that training is available at a reasonable cost for the
22 selected occupation and removes the language stating that the availability is "based on a review
23 of Board-approved training as set forth in §849.23(a)(1) - (4) of this subchapter in the workforce
24 area for like training."

25
26 New §849.22(b)(7) - (9) adds the following as criteria that Boards must ensure, prior to referring
27 a trade-affected worker to WIA intensive or training services, are met and documented in the
28 REP:

- 29 (7) Training can be fully completed and the degree or credential secured within the maximum
30 time frames established under the trade-affected worker's Trade Act certification;
31 (8) No portion of required training costs are borne by the worker; and
32 (9) Part-time training is approved only where permitted by the trade-affected worker's Trade Act
33 certification, and the worker is aware that TRA support during periods of part-time training will
34 be unavailable.

35
36 Section 849.22(c)(1) - (3) is removed.

37
38 New §849.22(c) provides that Boards must ensure the approval of Trade benefits and services is
39 accomplished by state merit staff, including approval of training, waiver issuance, and waiver
40 continuation, and the associated review and approval of waiver continuation.

41
42 New §849.22(d) provides that Boards must ensure that any denial of Trade benefits or services is
43 accomplished by forwarding a recommendation to the Agency's TAA unit for issuance of a
44 formal appealable decision.

1 **§849.23. Training Referrals**

2 Section 849.23(a)(1) - (5) specifies that Boards must ensure that referrals to Trade-funded
3 training are Board approved, and that training:

4 (1) meets the nine criteria established in §849.22(b)(1) - (9);

5 (2) uses training providers that are licensed under applicable state law or exempt from such
6 requirements, or possessing accreditation recognized by the US Department of Education;

7 (3) is occupationally specific;

8 (4) meets the needs of employers for demand or targeted occupations, or ensures the participant
9 has a reasonable expectation of employment; and

10 (5) can be completed and a degree or credential secured within the maximum time frame
11 established under the worker's Trade certification.

12
13 Section 849.23(a)(1)(B) removes the requirement for the Commission to approve prevocational
14 or vocational skills training referrals.

15
16 Section 849.23(a)(2) removes the requirement for training to meet the time limitations for Trade
17 benefits.

18
19 New §849.23(4) clarifies that training must offer a reasonable expectation of employment.

20
21 New §849.23(5) clarifies the requirement that training can be completed with a degree or
22 credential secured within the statutory time frames established under the worker's Trade
23 certification.

24
25 Section 849.23(b)(1) adds that employer-based training includes on-the-job training, customized
26 training, and apprenticeship programs.

27
28 Section 849.23(b)(3) specifies that workers' remedial training, including literacy, particularly
29 English as a Second Language, Adult Education and Literacy, or GED training, must be
30 considered.

31
32 Section 849.23(b)(3)(A) removes the requirement for the training provider to submit
33 amendments to the IEP.

34
35 Section 849.23(b)(3)(B) removes the requirement that the case manager approves amendments
36 before the Commission makes the final determinations regarding extended training.

37
38 Certain paragraphs have been renumbered to reflect additions.

39
40 Comment: One commenter expressed concern that "GED" refers to a specific brand name
41 for General Educational Development tests, and that the generic "high school
42 equivalency certificate" is the more appropriate term to use in these rules.

43
44 Response: The Commission agrees and amends §849.23(b)(3) to remove GED and replace
45 it with the more appropriate term, high school equivalency certificate.
46

1 COMMENTS WERE RECEIVED FROM:
2 Ellen Williams, on behalf of CTB/McGraw-Hill

3
4 The Agency hereby certifies that the adoption has been reviewed by legal counsel and found to
5 be within the Agency's legal authority to adopt.

6
7 The rules are adopted under Texas Labor Code §301.0015 and §302.002(d), which provide the
8 Texas Workforce Commission with the authority to adopt, amend, or repeal such rules as it
9 deems necessary for the effective administration of Agency services and activities.

10
11 The adopted rules affect Title 4, Texas Labor Code, particularly Chapters 301 and 302.
12

1 **CHAPTER 849. EMPLOYMENT AND TRAINING SERVICES FOR DISLOCATED**
2 **WORKERS ELIGIBLE FOR TRADE BENEFITS**

3
4 **SUBCHAPTER A. GENERAL PROVISIONS**

5
6 **§849.1. Purpose.**

7
8 (a) The ~~purpose~~**purposes** of this ~~chapter is rule~~**are** to ensure:

- 9
10 (1) statewide availability of services under the federal and state statutes and
11 regulations relating to services to dislocated workers eligible for Trade benefits
12 through the ~~Texas Workforce Centers~~**Workforce Solutions Offices** consistent
13 with Chapter 801 of this title relating to **Local Workforce Development**
14 **Boards**~~the One-Stop Service Delivery Network~~;
- 15
16 (2) coordination and integration of services to dislocated workers eligible for
17 Trade benefits through the **Workforce Solutions Offices** ~~Texas Workforce~~
18 **Centers** consistent with state law, **the Trade Act**, and the Workforce
19 Investment Act (WIA). **For the purposes of this subchapter, references to**
20 **the "Trade Act" include references to the federal statutes relating to the**
21 **Trade Act of 1974, as amended; and**
- 22
23 (3) provision of Rapid Response services, as set forth in §849.21(b) of this
24 chapter, upon receipt of a filed petition for Trade certification with the U.S.
25 Department of Labor (DOL).; ~~and~~
- 26
27 ~~(4) co-enrollment of Trade-certified workers in WIA, as appropriate, consistent~~
28 ~~with the Trade Act and WIA. For purposes of this subchapter, references to the~~
29 ~~"Trade Act" shall include references to the federal statutes relating to the Trade~~
30 ~~Act of 1974 and the Trade Act of 2002.~~

31
32 (b) The purposes of services to dislocated workers eligible for Trade benefits under the
33 Trade Act ~~and WIA~~ are to:

- 34
35 (1) ensure that dislocated workers eligible for Trade benefits are assisted in rapid
36 reattachment to employment;
- 37
38 (2) fund such services to develop or enhance the vocational skills necessary to
39 meet employers' needs when rapid reattachment to the workforce cannot be
40 obtained; and

- 1
2 (3) provide other such services, as may be funded under state or federal programs,
3 for post-employment activities, as needed.
4
5

6 **§849.2. Definitions.**
7

8 The following words and terms, when used in this chapter, shall have the following
9 meanings unless the context clearly indicates otherwise.
10

- 11 (1) ~~ATAA/RTAA~~—Alternative Trade Adjustment Assistance for Older
12 Workers/**Reemployment Trade Adjustment Assistance (ATAA/RTAA)**--
13 Benefits ~~are~~ available to workers in an eligible worker group who are at least
14 50 years of age and who obtain different, full-time employment **following**
15 **separation within 26 weeks of separation** from adversely affected
16 employment, at wages less than those earned in the adversely affected
17 employment. These workers may receive up to half of the difference between
18 the worker's old wage and the new wage, as set forth in the Trade Act.
19
- 20 (2) **Benchmarking--a process conducted no less often than once every sixty**
21 **(60) days and designed to monitor and ensure the worker progresses**
22 **toward completing the approved training based on two criteria:**
23
24 **(A) Maintaining satisfactory academic standing; and**
25
26 **(B) Staying on schedule to complete training within the time frame**
27 **identified in the approved training plan.**
28
- 29 (3)(2) Bona Fide Application for Training--any document developed by a Board or
30 provided by the Commission that meets the requirements of 20 CFR
31 §617.3(h)(1)(i), and is signed and dated by the participant, which includes the
32 participant's name, Trade petition number, and specific occupational training.
33
- 34 (4)(3) Contextual Learning--learning, which includes English and basic skills,
35 presented in the context of the selected vocational skills training.
36
- 37 (5) ~~HCTC Health Coverage Tax Credit. This benefit provides a tax credit of 65%~~
38 ~~of the cost of coverage of the eligible individual and qualified family members~~
39 ~~under qualified health insurance, as set forth in the Trade Act.~~
40
- 41 (5)(4) Employer-Based Training--training services specifically designed to meet
42 an employer's staffing and skill needs, including on-the-job and customized
43 training, **and apprenticeship programs, as defined by WIA and the Trade Act.**
44
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- ~~(6) IEP Individual Employment Plan. An individual employment plan and service strategy that must identify the results of a comprehensive and objective assessment of the knowledge, skills, abilities, and interests; employment goals; a description of the training services; and the appropriate combination of services for the participant to achieve employment goals and objectives.~~
 - (6) Job Search Allowance--cash benefit provided to Trade-certified workers to support out-of-area job search when suitable employment is not available within the Commission-established local commuting area.**
 - (7) Rapid Response Services--as defined by WIA §134; 20 CFR 652 Subpart. C; 20 CFR §665.300, §665.310, §665.320; and the Trade Act.
 - (8) Relocation allowance--A cash benefit provided to a Trade-certified worker to support relocation of the worker's household and family when suitable employment is not available to the worker within the Commission-established local commuting area and relocation is necessary to secure suitable employment.**
 - (9) Reemployment and Training Plan (REP)--An employability development plan and service strategy that identifies the results of a comprehensive and objective assessment of the participant's knowledge, skills, abilities, and interests; employment goals; a description of training services; the appropriate combination of services for the participant to achieve employment goals and objectives; and benchmarks for successful completion of the plan.**
 - ~~(10)(8)~~ Suitable Employment--any employment ~~prior to a referral to Trade-approved training~~ that meets the requirements of 19 ~~USC U.S.C.~~ §2296 (as referenced in 20 CFR 617 Subpart. C, Reemployment Services, and in particular §617.22(a)(1)(i)), which is employment that results in work of a substantially equal or higher skill level **as compared to** ~~than~~ the worker's past adversely affected employment, with wages of not less than 80 **percent%** of the worker's average weekly wage.
 - ~~(11)(9)~~ Trade Act--the federal statutes relating to Trade Adjustment Assistance, and **Trade Readjustment Allowances (TRAs)**. For purposes of this rule, references to the "Trade Act" shall include references to the federal statutes relating to the Trade Act of 1974, **as amended, which includes** ~~and~~ the Trade **Adjustment Assistance Reform Act of 2002; the Trade and Globalization Adjustment Assistance Act of 2009; the Omnibus Trade Act of 2010; the Trade Adjustment Assistance Extension Act of 2011; and the sunset provisions of the Trade Adjustment Assistance Extension Act of 2011, referred to as Reversion 2014.**

1 (12)(10) Trade-Affected Worker--any dislocated worker, as defined in WIA §134,
2 or secondarily impacted worker as referenced in 19 ~~USCU.S.C.~~ §2272, who
3 states that his or her job was adversely affected by trade, ~~and~~ has filed, or
4 whose company has filed, or who has been assisted in filing a petition for
5 Trade certification with the ~~USU.S.~~ Department of Labor (DOL).
6

7 (13)(11) Trade Benefits--benefits available to dislocated workers certified by DOL
8 as eligible for Trade benefits, which are funded through the federal Trade
9 program administered by DOL.
10

11 (14)(12) Trade-Certified Worker--any worker meeting the definition of trade-
12 affected worker who is covered by a certification of eligibility as a result of a
13 petition and determination of certification under 19 U.S.C. §2273 by the
14 Secretary of ~~DOL~~the U.S. Department of Labor.
15

16 (15)(13) ~~TRAs~~--Trade Readjustment Allowances (~~TRA~~)---Income-support benefits
17 available to certain trade-affected workers.
18

19 (16)(14) ~~UI~~--Unemployment Insurance (~~UI~~)--~~UI~~ program; as set forth in Texas
20 Labor Code §201.001 *et seq.*
21

22 (17)(15) Waiver of ~~the~~ Training ~~Requirement~~--~~a any~~ document developed ~~by a~~
23 ~~Board or provided~~ by the ~~Agency, which may be adapted by a Board, that~~
24 ~~Commission that~~ meets the requirements of the Trade Act, ~~and is approved~~
25 ~~by state merit staff, which recommends~~ waiving the requirement to be
26 enrolled in Trade-funded training in order to receive ~~TRAs and the~~
27 ~~HCTC~~.
28

29 (18)(16) WARN--The Worker Adjustment and Retraining Notification Act, as set
30 forth in WIA and the Trade Act.
31

32 §849.3. Trade Service Strategy.

- 33
- 34 (a) Boards shall ensure that their strategic planning process includes an analysis of the
35 local labor market to:
- 36
- 37 (1) determine employer needs;
 - 38 (2) determine emerging, targeted, and demand occupations;
 - 39 (3) identify employment opportunities, which include those with a potential for
40 career advancement; and
 - 41 (4) identify employer-based training opportunities.
42
43
44
45

1 (b) Boards shall set local policies for a Trade service strategy that coordinate various
2 service delivery approaches to:

- 3
4 (1) assist dislocated workers eligible for Trade benefits in obtaining suitable
5 employment as an alternative to referral to training;
6
7 (2) promote the use of WIA core and intensive services to support the rapid
8 reattachment to the workforce;
9
10 (3) refer to prevocational and vocational training in demand and targeted
11 occupations, **or occupations in which there is a reasonable expectation of**
12 **employment**; and
13
14 (4) assist in job retention and career advancement.

15
16 (c) Boards shall ensure that dislocated workers eligible for Trade benefits, who are
17 unable to find suitable employment through WIA core services, are ~~coenrolled~~
18 ~~enrolled~~ in WIA Title I dislocated worker services **consistent with WIA eligibility**
19 **criteria, the needs of the worker, and the policies and procedures of the**
20 **Board for referral to Trade-funded intensive and training services. The**
21 **coenrollment of workers into WIA Title I dislocated worker services shall not**
22 **interfere with the timely provision of TAA services.**

23
24 ~~(d) Boards shall ensure that dislocated workers eligible for Trade benefits receive the~~
25 ~~following services:~~

- 26
27 ~~(1) career counseling;~~
28
29 ~~(2) job development and placement;~~
30
31 ~~(3) case management;~~
32
33 ~~(4) follow-up services upon completion of training; and~~
34
35 ~~(5) support services, such as child care and transportation, funded through other~~
36 ~~sources based on applicable Board policy and procedure.~~

37
38 **(d) Boards shall ensure that dislocated workers eligible for Trade benefits receive**
39 **the following services:**

- 40
41 **(1) Explanation of benefits and services available under the Trade Act, to**
42 **include applicable deadlines;**
43
44 **(2) Assessment of education, skills, and service needs;**
45

- (3) Information on training available locally and regionally, including information on how to apply for financial aid supported under the Higher Education Act of 1965;
- (4) Individual career counseling, including job search and placement counseling;
- (5) Short-term prevocational services;
- (6) Issuance of a waiver of the training requirement where suitable work is unavailable, training is determined not to be feasible or appropriate, and the worker meets applicable eligibility criteria;
- (7) Development of an REP;
- (8) Referral to training services where suitable employment is unavailable;
- (9) Assistance in filing requests for job search and/or relocation allowances;
- (10) Support services available under the WIA Title I dislocated worker program;
- (11) Case management; and
- (12) Follow-up services upon completion of training.

SUBCHAPTER B. TRADE SERVICES RESPONSIBILITIES

§849.11. General Board Responsibilities.

- (a) Board Planning. A Board shall amend and modify its integrated workforce training and services plan to incorporate and coordinate the design, policy development, and management of the delivery of Trade activities and support services with the delivery of other workforce employment, training, and educational services identified in Texas Government Code §2308.251 *et seq.*, as well as other training and services included in the One-Stop Service Delivery Network as set forth in Chapter 801 of this title.
- (b) Reporting. Boards shall ensure that documentation is maintained as required by the Commission, including documentation required in the Commission's automated reporting system.
- (c) Monitoring. A Board shall ensure that the monitoring of program requirements and participant activities is part of the monitoring required under Chapter ~~802800~~, Subchapter ~~DI~~ of this title, relating to monitoring and, in particular, that the

1 monitoring is ongoing and frequent, as determined appropriate by the Board, and
2 consists of the following:

- 3
- 4 (1) timely and accurate reporting of data required for the provision of services to
5 the trade-affected worker;
- 6
- 7 (2) tracking and reporting of participation;
- 8
- 9 (3) tracking and reporting of support services;
- 10
- 11 (4) ensuring progress toward achieving the goals and objectives **through**
12 **benchmarking, as established** in the **worker's REP Individual Employment**
13 **Plan (IEP), as and** defined by ~~WIA and in §849.2(9) §849.2(6)~~ of this chapter;
14 **and**
- 15
- 16 ~~(5) notifying the Commission if a participant drops out of training; and~~
- 17
- 18 ~~(5)(6)~~ monitoring other requirements, as prescribed by the Commission.
- 19

20 **§849.12. Participant Responsibilities.**

21 As required by the Trade Act, dislocated workers eligible for Trade benefits shall:

- 22
- 23
- 24 (1) apply for UI **and TRA** benefits in the manner, and pursuant to the time limits,
25 prescribed by federal and state statutes and regulations; **and**
- 26
- 27 (2) contact the local Workforce **Solutions Office Center** and register for full-time
28 work by enrolling in the Commission's automated job matching system;
- 29
- 30 (3) attend Rapid Response and Trade orientation activities;
- 31
- 32 (4) report to the employer to whom they are referred for suitable employment;
- 33
- 34 (5) accept a job offer **and/or retain employment**, if it meets the criteria for
35 suitable employment;
- 36
- 37 (6) attend scheduled appointments with the case manager, if no suitable
38 employment is available;
- 39
- 40 (7) **fully** participate in **Trade-approved** training ~~that is full-time~~ as defined by the
41 training provider or **the** Commission;
- 42
- 43 (8) notify the case manager **prior to modifying approved Trade-funded**
44 **training by adding or dropping coursework** ~~within one week of having~~
45 ~~dropped out of approved Trade-funded training; and;~~
- 46

1 (9) maintain satisfactory academic status while enrolled in Trade-funded
2 training and progressing in training as stipulated in the approved REP;
3 and
4

5 (10)(9) report to employers, as referred by case managers, upon completing
6 training.
7

8 SUBCHAPTER C. TRADE SERVICES

9 §849.21. Activities Prior to Certification of a Trade Petition.

- 10
11
- 12 (a) Boards shall develop intervention strategies for providing **Workforce Solutions**
13 **Office Texas Workforce Center** services, which ensure rapid, suitable, and long-term
14 employment for trade-affected workers and dislocated workers eligible for Trade
15 benefits.
16
- 17 (b) Boards shall ensure that layoff assistance is provided ~~in the local workforce~~
18 ~~development areas (workforce areas)~~ consistent with WIA Title I Rapid Response
19 services, including the following:
20
- 21 (1) contacting the employer immediately on receipt of a filed Trade petition,
22 WARN letter, or other notification of pending layoff;
23
- 24 (2) scheduling an on-site meeting with the employer and workers to ensure
25 notification of Rapid Response services, including availability of UI mass
26 claims;
27
- 28 (3) assisting **companies, workers, and labor unions** with filing a Trade
29 ~~petitions~~petition with DOL, ~~including a request for certification under ATAA;~~
30
- 31 (4) providing initial assessment of the ~~workers~~**workers'** English, math, and reading
32 levels as well as transferable skills and interests;
33
- 34 (5) registering for work for purposes of entering information in the Commission's
35 automated job matching system;
36
- 37 (6) scheduling on- or off-site services for workers, including:
38
- 39 (A) orientation to federal Trade Act benefits, which includes the following:
40
- 41 (i) TRAs;
42
- 43 (ii) Trade Act-funded employment and training activities; **and**
44
- 45 ~~(iii) Health Coverage Tax Credit (HCTC);~~
46

1 (iii)(iv) A bona fide application for training ensuring that the worker has
2 been notified of all available benefits to which he or she may be
3 eligible; and
4

5 ~~(v) A signed waiver of training ensuring eligibility for HCTC and other
6 Trade benefits that have regulatory time limits. A waiver is
7 appropriate if the worker has significant barriers to reemployment,
8 such as~~

9
10 ~~(I) obsolete skills in the worker's most recent occupation;~~

11
12 ~~(II) similar skills to other workers representing an excess supply of
13 similarly skilled workers in the labor market area; and~~

14
15 ~~(III) limited English language proficiency coupled with limited or
16 no skills in demand in the local labor market area.~~

17
18 (B) orientation to labor market information, including wage data and the
19 availability of demand and targeted occupations as defined by the
20 Board.; and
21

22 (7) **coordinating with the appropriate UI field specialist.**

23
24 **§849.22. Post -Certification of a Trade Petition.**

25
26 (a) Boards shall ensure that:

27
28 (1) Trade-certified workers referred to **WIA** intensive or training services are
29 **coenrolled** ~~enrolled~~ in WIA dislocated worker services, **consistent with WIA**
30 **eligibility criteria, the needs of the worker, and a Board's policies and**
31 **procedures; and**

32
33 (2) **the coenrollment of Trade-certified workers in WIA Title I dislocated**
34 **worker services shall not interfere with the timely provision of TAA**
35 **services.**

36
37 (b) Boards shall ensure that prior to referring a trade-affected worker to **WIA** intensive
38 or training services, each of the following ~~ninesix~~ criteria are met and documented in
39 the **REPHEP**:

40
41 (1) no suitable employment **is available**;

42
43 (2) ability of the worker to benefit from training, based on a comprehensive
44 assessment of the worker's knowledge, skills, and abilities;

45
46 (3) reasonable expectation of employment following completion of the training;

- 1
2 (4) training is reasonably available to the worker, ~~within the commuting area as~~
3 ~~defined in the Texas Unemployment Compensation Act~~;
- 4
5 (5) worker is qualified to undertake and complete the training based on a
6 comprehensive assessment of the worker's knowledge, skills, abilities, and
7 interests; ~~and~~
- 8 (6) training is available at a reasonable cost ~~based on a review of Board approved~~
9 ~~training as set forth in §849.23(a)(1)–(4) of this subchapter in the workforce~~
10 ~~area for like training~~ for the selected occupation.;
- 11
12 (7) **training can be fully completed and the degree or credential secured**
13 **within the maximum time frames established under the trade-affected**
14 **worker's Trade Act certification;**
- 15
16 (8) **no portion of required training costs are borne by the worker; and**
- 17
18 (9) **part-time training is approved only where permitted by the trade-affected**
19 **worker's Trade Act certification, and the worker is aware that TRA**
20 **support during periods of part-time training will be unavailable.**

21
22 ~~(c) Boards shall ensure that referrals to training and amendments are submitted timely to~~
23 ~~the training provider and the Commission's Trade Unit for final determination, as~~
24 ~~appropriate, and include the following:~~

- 25
26 ~~(1) a comprehensive assessment of the worker's knowledge, skills, abilities, and~~
27 ~~interests;~~
- 28
29 ~~(2) an IEP based on the assessment and a Board's demand and targeted occupation~~
30 ~~list; and~~
- 31
32 ~~(3) information regarding the occupation selected in the counseling process.~~

33
34 **(c) Boards shall ensure that the approval of Trade benefits and services is**
35 **accomplished by state merit staff, including approval of training, waiver**
36 **issuance, and the associated review and approval of waiver continuation.**

37
38 **(d) Boards shall ensure that any denial of Trade benefits or services is**
39 **accomplished by forwarding a recommendation to the Agency's TAA unit for**
40 **issuance of a formal appealable decision.**

41
42 **§849.23. Training Referrals.**

43
44 (a) Boards shall ensure that referrals to Trade-funded training are Board approved as set
45 forth in ~~§849.23(a)(1)(A)–(C) of this subsection, and that training, prior to final~~
46 ~~Commission determination:~~

- (1) ~~meets~~ **Meet** the ~~nine six~~ **nine** criteria established in ~~§849.22(b)(1) - (9)~~ **§849.22(b)(1) - (6)** of this subchapter; **and**
- (2)(A) **uses** training providers **that are licensed under applicable state law or exempt from such requirements, or possessing accreditation recognized by the US Department of Education** ~~are in the Eligible Training Provider Certification System as defined Chapter 841 of this title;~~
- (3)(B) **is occupationally specific;** ~~pre-vocational or vocational skills training as approved by the Commission; or~~
 - (C) ~~training that offers contextual learning opportunities for Limited English Proficient (LEP) clients as approved by the Board.~~
- (2) ~~Meet the time limitations for Trade benefits;~~
- (4)(3) **meets** ~~Meet~~ the needs of employers for demand or targeted occupations, or **that ensures** the participant has a **reasonable expectation of employment** ~~bona fide job offer~~; and
- (5)(4) **can be** ~~Be~~ completed **and a degree or credential secured during** ~~within~~ the **maximum time frame established under the worker's Trade certification** ~~104 weeks of Trade-funded benefits, unless otherwise determined by the Commission.~~

(b) Boards shall ensure that the following types of intensive and training services are considered:

- (1) employer-based training, **including on-the-job training, customized training, and apprenticeship programs;**
- (2) contextual vocational skills training, particularly for Limited English Proficiency ~~customers (LEP) clients;~~ **and**
- (3) remedial training, including literacy, particularly English as a Second Language ~~(ESL), Adult Education and Literacy Basic Education (ABE), or certificate of general equivalency (GED) high school equivalency certificate~~ **training, as stand-alone or linear training only when consistent with the needs of the participant to qualify for certain vocational skills training; or the requirements of employer-based training, as identified in the IEP; and**
 - (A) ~~the training provider has submitted amendments to the IEP; and~~
 - (B) ~~the case manager has approved the amendments in order for the Commission to make the final determination for extended training.~~