

1 **Policy Concept**
2 **Chapter 801, Local Workforce Development Boards**
3 **Rule Project #2021-09-801 – WIA to WIOA Updates**

4 **Introduction and Background**

5 The Workforce Innovation and Opportunity Act (WIOA) superseded the Workforce Investment Act of
6 1998 (WIA) and amended the Wagner-Peyser Act and the Rehabilitation Act of 1973. WIOA reaffirms
7 the role of the one-stop delivery system as a key component of a streamlined, comprehensive public
8 workforce development system, further integrating programs that focus on supporting employment.
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10 Texas Workforce Commission's (TWC's) rules in 40 TAC Chapter 801 address Local Workforce
11 Development Boards (Boards) and the rules were last amended effective February 11, 2011, before
12 WIOA took effect. Chapter 801 is directly affected by some of WIOA's provisions, and the chapter
13 requires amendments to align with those provisions.
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15 The General Appropriations Act - Senate Bill (SB) 1, Article VII, Texas Workforce Commission, Rider
16 46 from the 87th Texas Legislature, Regular Session (2021) requires TWC to ensure that digital skill
17 building is a permitted activity in workforce development programs. House Bill 900 from the 79th Texas
18 Legislature, Regular Session (2005) amended Texas Labor Code, Chapter 302 by adding §302.0027,
19 which requires TWC and Boards to ensure financial literacy training is an included activity in all
20 workforce programs.
21

22 Additionally, Texas Government Code, §2001.039 requires that every four years each state agency
23 review and consider for re-adoption, revision, or repeal each rule adopted by that agency. The four-year
24 rule review of Chapter 801 is due by January 2023.
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26 **Purpose for the Proposed Rule**

27 The purpose for this proposed rule is to amend Chapter 801, Local Workforce Development Boards, to
28 conform with language and requirements implemented by WIOA. The proposed rule will also amend
29 §801.25 to conform with legislation requiring TWC to ensure that digital skill building, including digital
30 access and support for program participants, "is an explicitly permitted use of existing workforce
31 development grant programs" and to include financial literacy training as a required activity in
32 accordance with Texas Labor Code, §302.0027. Additionally, the rules in Chapter 801 will be reviewed
33 in accordance with Texas Government Code, §2001.039.
34

35 **Rule Revisions Required by Federal Regulation or State Statute**

36 **Issue #1: WIOA Conformity**

37 The amendments to Chapter 801 will update references throughout from WIA to WIOA and create new
38 §801.26 to address the memorandum of understanding requirements related to Partners and Programs.
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40 Other amendments to Chapter 801 include:

- 41 • updates to the statutory and regulatory titles and citations required by WIOA;
- 42 • updates to the Workforce Solutions Offices definition to clarify differences between Comprehensive
43 Centers and Affiliate Sites, and removes references to previously used Certified and Other offices;
- 44 • updates to change One-Stop Service Delivery *Network* to One-Stop Service Delivery *System*;
- 45 • removal of the Project Reintegration of Offenders reference;
- 46 • updates to training services to include Incumbent Worker Training; and

- updates to §801.28 to include follow-up services as stand-alone activity.

Issue #2: Local Board-Required Partnerships

WIOA identifies the required one-stop partners that integrate service delivery across all programs. WIA §194(a)(3) and subsequent WIOA §193(a)(3) provide for a state to designate one-stop partners under prior consistent state law in lieu of following the requirements laid out in WIA §121 and subsequent in WIOA §121. Texas currently relies upon the following sections of Texas Government Code to inform the list of Required Board Partners:

- §2308.304(d) – which includes a list of program resources that must be described in the operational component Local Plan; and
- §2308.312(c) – which describes the services that must be available in local workforce solutions offices.

The amendments will update the Workforce Solutions Office Partners and Programs lists in §801.27 to conform with WIOA. Staff recognizes that the additional required partnerships included in WIOA are aligned with the overall goals of the workforce development system. Including additional, statutorily required, partnerships to current partners will strengthen local networks and bolster services available to meet the needs of those we serve.

Additionally, the amendments will update Local Board-Required Partners to include the following, previously voluntary programs:

- Native American, Job Corps, YouthBuild, Migrant and Seasonal Farmworker, and National Dislocated Worker Grant programs, authorized under WIOA Title I, when operating in the local area;
- Career and technical education programs, under the Carl D. Perkins Act;
- Community Services Block Grant employment and training programs;
- Housing and Urban Development employment and training programs; and
- Second Chance Act programs.

Issue #3: Veteran Definition

The National Defense Authorization Act for Fiscal Year 2020 (Public Law 116-92), signed into law on December 20, 2019, created the United States Space Force, a new branch of the armed services. The amendments to Chapter 801 will update the definition of veteran to conform to amendments in 38 United States Code §101(2) related to this new military branch.

Issue #4: Digital Skill Building

SB 1, Article VII, Rider 46 requires TWC to "ensure that digital skill building is an explicitly permitted use of existing workforce development grant programs" and to "utilize federal funds to provide digital skill building, device access, and digital support for workers in workforce development programs." The amendments to Chapter 801 will include digital skill building as a service Boards must ensure is made available through all Workforce Solutions Offices.

Other Rule Revisions

Issue #5: Financial Literacy

HB 900 amended Texas Labor Code, Chapter 302 by adding §302.0027, which requires that all TWC and Board-administered workforce development programs include financial literacy training. TWC implemented this requirement through Workforce Development Letter 60-05 (issued in 2005) and

1 ongoing program guidance; no rules were necessary for this implementation. The amendment to
2 §801.25, which deals with the minimum standards for Comprehensive Workforce Solutions Offices, will
3 consolidate this requirement with the other minimum standards and clarify that Boards must ensure that
4 financial literacy training is an available service for all workforce development programs.
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6 **Issue #6: Rule Review of Chapter 801**

7 In accordance with Texas Government Code, §2001.039, staff will review the rules in Chapter 801 to
8 ensure the reasons for adopting the rules continue to exist and align with current program policy and
9 procedures.
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11 **PC Decision Point**

12 Staff recommends amending Chapter 801 to address general WIOA conformity, update required Board
13 partners, update the definition of veteran, and implement state statutes as stated in this policy concept.
14 Staff also recommends reviewing Chapter 801 in accordance with Texas Government Code, §2001.039.