

1 **CHAPTER 801. LOCAL WORKFORCE DEVELOPMENT BOARDS**

2
3 **ADOPTED RULES WITH PREAMBLE TO BE SUBMITTED TO THE TEXAS**
4 **REGISTER. THIS DOCUMENT WILL HAVE NO SUBSTANTIVE CHANGES BUT IS**
5 **SUBJECT TO FORMATTING CHANGES AS REQUIRED BY THE TEXAS REGISTER.**
6

7 The Texas Workforce Commission (Commission) adopts amendments to the following sections
8 of Chapter 801 relating to Local Workforce Development Boards *with* changes, as published in
9 the June 9, 2006, issue of the *Texas Register* (31 TexReg 4710):
10

11 Subchapter A, General Provisions, §801.1

12
13 Subchapter B, One-Stop Service Delivery Network, §801.23 and §801.25

14
15 Subchapter C, The Integrity of the Texas Workforce System, §801.51

16
17 The Commission adopts amendments to the following sections of Chapter 801 relating to Local
18 Workforce Development Boards *without* changes, as published in the June 9, 2006, issue of the
19 *Texas Register* (31 TexReg 4710):
20

21 Subchapter A, General Provisions, §§801.2, 801.11, 801.16, and 801.17

22
23 Subchapter B, One-Stop Service Delivery Network, §§801.21, 801.22, 801.24, 801.27,
24 801.28, and 801.29

25
26 The Commission adopts the following new section of Chapter 801 relating to Local Workforce
27 Development Boards *without* changes, as published in the June 9, 2006, issue of the *Texas*
28 *Register* (31 TexReg 4710):
29

30 Subchapter B, One-Stop Service Delivery Network, §801.31

31
32 The Commission adopts the repeal of the following section of Chapter 801 relating to Local
33 Workforce Development Boards *without* changes, as published in the June 9, 2006, issue of the
34 *Texas Register* (31 TexReg 4710):
35

36 Subchapter B, One-Stop Service Delivery Network, §801.26

37
38 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**
39 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS WITH COMMENTS**
40 **AND RESPONSES**

41
42 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**

43
44 The purpose of the adopted Chapter 801 rules change is to implement:

1 --House Bill (HB) 720, enacted by the 79th Texas Legislature, Regular Session (2005), which
2 directs that Local Workforce Development Boards (Boards) include one member who is a
3 veteran and serves the interests of veterans;
4 --HB 2604, enacted by the 79th Texas Legislature, Regular Session (2005), which directs that
5 veterans receive preference--i.e., priority of service--for state-funded training or assistance
6 under a job training or employment assistance program or service;
7 --Senate Bill (SB) 6, enacted by the 79th Texas Legislature, Regular Session (2005), which
8 directs that workforce services be prioritized and targeted to meet the needs of current foster
9 youth and former foster youth and that Boards and the Texas Department of Family and
10 Protective Services (DFPS) jointly develop and adopt a memorandum of understanding; and
11 --Open Meetings Act (Texas Government Code, Chapter 551) requirements as they apply to
12 business conducted by the Boards in their capacity as governmental entities.
13

14 Additionally, 38 U.S.C. §4215 provides federal priority of service for U.S. Department of Labor
15 (DOL)-funded employment, training, and placement programs for federal qualified veterans and
16 qualified spouses. The adopted amendment to Chapter 801 distinguishes between state qualified
17 veterans eligible for a preference in state-funded services and federal qualified veterans and
18 qualified spouses eligible for preference in DOL-funded programs.
19

20 House Bill 720

21 Texas Government Code §2308.256(h) requires that at least one member of a Board, who
22 qualifies under one of the existing membership categories, also be a veteran. Additionally,
23 Texas Government Code §2308.251(2) specifies that veteran candidates for Board membership
24 must have served in the federal armed forces, United States public health services, state military
25 forces, or an auxiliary service of one of the branches of the armed forces, and possess an
26 honorable discharge. Section 801.1(g)(2)(C)(vii) of this chapter requires that a veteran serve
27 concurrently as a representative of veterans and in a membership category for which he or she
28 qualifies.
29

30 HB 720 amends Texas Government Code §2308.256 to strengthen this provision by directing
31 that the Board member who is a veteran also represents the interests of veterans in the local
32 workforce development area in addition to the interests of the membership category for which
33 the veteran was appointed. In clarifying and defining an existing Board member role filled by a
34 veteran and the interests that member represents, HB 720 does not require a new membership
35 category.
36

37 House Bill 2604

38 HB 2604 amends Chapter 302 of the Texas Labor Code and directs that qualified veterans, as
39 identified in Texas Government Code §657.002(a), receive preference--i.e., priority of service--
40 for training or assistance under a job training or employment assistance program or service. This
41 requirement applies to services funded in whole or in part by state funds.
42

43 Senate Bill 6

44 SB 6 amends Chapter 264 of the Texas Family Code and directs DFPS to address the unique
45 challenges facing foster youth who are in the conservatorship of DFPS and must transition to
46 independent living.

1
2 The statute requires Boards and DFPS to jointly develop and adopt a memorandum of
3 understanding. The memorandum of understanding will ensure that eligible foster youth are
4 given access to the workforce system to help meet their employment, education, and training
5 needs, and will promote collaborations and referrals to the Texas Workforce Centers in order to
6 further the objectives of the Preparation for Adult Living (PAL) program.
7

8 DFPS is the agency responsible for administering and overseeing the federal Chafee Foster Care
9 Independence Program (Chafee). In Texas, the independent program that receives Chafee
10 funding is the PAL program. The goals or objectives of the PAL program include:

- 11 --helping foster youth transition to self-sufficiency;
- 12 --helping foster youth receive the education, training, and services necessary to obtain
- 13 employment;
- 14 --helping foster youth prepare for postsecondary training and educational institutions;
- 15 --providing personal and emotional support to foster youth through mentors and the promotion of
- 16 interactions with dedicated adults;
- 17 --providing financial, housing, counseling, employment, education, and other appropriate support
- 18 services to former foster youth between the ages of 18 and 21; and
- 19 --providing vouchers for education and training, including postsecondary education, to youth
- 20 who have aged out of foster care.

21
22 SB 6 also charges that the Commission and Boards must ensure that workforce services are
23 prioritized and targeted for youth transitioning out of the foster care system and for former foster
24 youth. Further, where feasible, Boards must refer foster youth who need housing for short-term
25 housing stays.
26

27 In addition to 38 U.S.C. §4215, which establishes federal priority of service for federal qualified
28 veterans and qualified spouses in DOL-funded programs, there are two federal statutes that
29 define veterans for DOL-funded programs--38 U.S.C. §4211 and 29 U.S.C. §2801(49). These
30 two federal statutes define veterans differently. To simplify identification of veterans and ensure
31 consistent application of federal priority of service, the Commission has requested a waiver
32 under the Workforce Investment Act (WIA) (29 U.S.C. §2939) of the definition of veteran (29
33 U.S.C. §2801(49)] used for WIA services, to conform with the definition of veteran in 38 U.S.C.
34 §4211.
35

36 To reinforce the federal priority of service provisions (38 U.S.C. §4215) and to implement the
37 state priority of service provisions, federal qualified veterans and qualified spouses, state
38 qualified veterans, and eligible foster youth first must be identified at the initial point of contact
39 and then notified of their priority for workforce services. These individuals will be given priority
40 over all other equally qualified individuals in the receipt of employment assistance or job
41 training services.
42

43 For state-funded workforce services, if a state qualified veteran and an eligible foster youth
44 concurrently apply for workforce services, or if a waiting list exists, the state qualified veteran
45 must be served before the eligible foster youth.
46

1 Furthermore, for DOL-funded workforce services, if a federal qualified veteran or qualified
2 spouse, state qualified veteran, and eligible foster youth concurrently apply for workforce
3 services, or if a waiting list exists, the federal qualified veteran or qualified spouse must be
4 served before the state qualified veteran or the eligible foster youth.

5
6 Open Meetings Act

7 The Open Meetings Act directs all governmental bodies, including Boards, to adopt policies in
8 an open public meeting that has been properly posted and convened.

9
10 All Board directives that impact the rights, benefits, and privileges of employers, individuals,
11 other customers, or organizations are official governmental policies, must be voted on, and
12 adopted as Board policy in an open meeting. Board policy making involves developing and
13 adopting directives as local guidelines that implement, interpret, or prescribe laws, regulations,
14 and state policies.

15
16 Board policy making also occurs when a Board chooses to make changes to long-standing
17 administrative procedures in a manner that is significant enough to impact the rights, property, or
18 privileges of individuals or groups of individuals.

19
20 While the Commission has offered guidance to Boards on implementation of the Open Meetings
21 Act, the rules did not specifically reference the open meetings requirements. Because the Open
22 Meetings Act applies to all Board policies, the adopted amendment to Chapter 801 sets out
23 certain key requirements.

24
25
26 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS WITH COMMENTS**
27 **AND RESPONSES**

28
29 (Note: Minor editorial changes have been made that do not change the meaning of the rules and,
30 therefore, are not discussed in the Explanation of Individual Provisions.)

31
32 **SUBCHAPTER A. GENERAL PROVISIONS**

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

34
35 **§801.1. Requirements for Formation of Local Workforce Development Boards**

36 Section 801.1(g)(2)(A)(ii)(VI) is modified to improve clarity.

37
38 **Comment:** One commenter stated that the proposed language in this rule may be
39 inconsistent with federal and state law, as well as §801.1(g)(2)(C), as appointment authority
40 for individual Board members “rests firmly in the jurisdiction of the Chief Elected Officials.”
41 The commenter added that Chief Elected Officials (CEOs) appoint individual Board
42 members; they do not "recommend" them to the Commission for appointment.

43
44 **Response:** The amended language in §801.1(g)(2)(A)(i)(VI) is purely nonsubstantive in
45 nature and is changed solely for consistency, without modifying the original intent of the
46 language. The Commission also points out that the process referred to in

1 §801.1(g)(2)(A)(i)(VI) relates to the Board's internal process, which must be consistent with
2 applicable federal and state laws and must be made part of the interlocal agreement
3 mentioned in §801.1(g)(2)(A)(i).
4

5 The grandfather provisions of the Workforce Investment Act provide for continuation of the
6 Commission as the Texas entity with authority to establish statewide criteria for Board
7 membership beyond the minimum standards for membership of each Board enacted in WIA
8 §117(b)(2). The Commission's rules outlining the membership criteria and the process of
9 reviewing appointments for compliance with these criteria, along with federal and state
10 statutes, regulations, and policies, have been in place for more than eight years. The
11 Commission's compliance and oversight role ensures that all Boards are composed according
12 to state and federal law. The Board composition must be consistent with Texas Government
13 Code §2308.256 and §801.1(g) of this chapter. The Commission does not appoint Board
14 members, but merely ensures the appropriate composition according to state and federal law.
15 Because it is the Commission's duty to oversee the Board appointment process,
16 §801.1(g)(2)(A)(i)(VI) is not in conflict with §801.1(g)(2)(C). This issue is further discussed
17 in §801.11 of this chapter.
18

19 **Comment:** One commenter stated that the proposed rule language limits the authority of
20 CEOs to use "local wisdom" when appointing members to the Board and the flexibility of the
21 Board to adjust to economic changes. The commenter added that the rule language states
22 that locally obtained information may be used for these decisions; however, the Board
23 profiles used for reports to the Commission in determining which industries should be
24 represented on a Board only consider percentage of industrial representation and do not
25 reflect businesses with employment opportunities. The commenter goes on to say that the
26 decision as to which industries are represented on a Board should remain a local decision that
27 is made by both the nominating organization and the appointing official and should not be
28 subject to review by the Commission.
29

30 **Response:** The Commission recognizes Boards' challenges regarding Board member
31 nominations, but emphasizes that the amended language in §801.1(g)(2)(C)(ii) is purely
32 nonsubstantive in nature and is changed solely for consistency, without modifying the
33 original intent of the language.
34

35 As noted in the response to the comments made to amended §801.1(g)(2)(A)(i)(VI), the
36 Commission is authorized to establish statewide criteria for Board membership beyond the
37 minimum standards for membership of each Board enacted in WIA §117(b)(2), and is
38 obligated to ensure the appropriate Board composition according to these criteria and
39 applicable state and federal law. While it is true that under §2308.255(a) of the Texas
40 Government Code CEOs appoint the Board, §2308.255(b) of the Texas Government Code
41 goes on to add that the appointments must "(1) be consistent with the local government
42 agreement and applicable federal and state law; and (2) reflect the ethnic and geographic
43 diversity of the workforce development area." Thus, while CEOs exercise local flexibility in
44 appointing the Board, the Commission has a separate, parallel obligation to evaluate those
45 appointments against federal and state laws, regulations, and policies.
46

1 Section 801.1(g)(2)(A)(ii)(VII) updates the name of the Texas Council on Workforce and
2 Economic Competitiveness to the Texas Workforce Investment Council.

3
4 Section 801.1(g)(2)(C) is reorganized. Section 801.1(g)(2)(C)(vii)(II) and
5 §801.1(g)(2)(C)(vii)(III) are added to require that an existing Board member, who qualifies as a
6 veteran, be actively engaged in veterans' affairs or services and maintain a policy or decision-
7 making role as a voting member or officer in a veterans' organization or association.

8
9 **Comment:** Six commenters stated that the proposed rule language that would require the
10 veterans' representative on the local Board to "be actively engaged in veterans' affairs or
11 services and maintain a policy or decision-making role as a voting member or officer in a
12 veterans' organization or association" would place an undue hardship on the Boards. The
13 commenters also stated that this additional language goes well beyond state statute
14 requirements and that in rural areas the requirement will present significant difficulties. The
15 commenters added that if this rule change takes place, it will become increasingly difficult to
16 find members to fill this slot.

17
18 **Response:** The Commission appreciates the comments and, after considering the points, has
19 revised language in §801.1(g)(2)(C)(vii) to remove the requirement that the veterans'
20 representative "be actively engaged in veterans' affairs or services and maintain a policy or
21 decision-making role as a voting member or officer in a veterans' organization or
22 association." The Commission has amended the rule to require that the veterans'
23 representative must have an understanding of the needs of the local veterans' population and
24 willingness to represent the interests and concerns of veterans in order to qualify for the
25 position.

26
27 **Comment:** One commenter stated that the proposed language in this rule is unnecessary and
28 restricts the appointing authority of the local officials. The requirement for Board members
29 to be actively engaged in the organization, enterprise, or field that they are nominated to
30 represent restricts the appointing authority of the local officials to select individuals who add
31 value to the Board. The commenter added that retired professionals, entrepreneurs, and
32 investors have the experience, the community relationships, and the time to invest in
33 strengthening the mission of the workforce system. The commenter reiterates that these
34 decisions should be left to the CEOs and not to the Commission.

35
36 **Response:** The amended language in §801.1(g)(2)(C)(v) is purely nonsubstantive in nature
37 and is changed solely for consistency, without modifying the original intent of the language.

38
39 As noted in the response to the comments made to amended §801.1(g)(2)(A)(i)(VI), the
40 Commission is authorized to establish statewide criteria for Board membership beyond the
41 minimum standards for membership of each Board enacted in WIA §117(b)(2).

42
43 Section 801.1(g)(2)(D)(ii) is added to state that an existing Board member, who qualifies as a
44 veteran, can represent local veterans' interests as well as the membership category for which he
45 or she was appointed.

1 **§801.11. Board Member Nomination and Appointment**

2 New §801.11(d) has been added to clarify that Board membership categories must be
3 maintained, as set forth in §801.1(g)(2)(C).
4

5 **Comment:** Three commenters stated that the proposed language in this rule is inconsistent
6 with state and federal law. The commenters stated that the Commission's role is to certify
7 local appointments and that the Commission has no authority to make or approve individual
8 appointments. The commenters added that those powers rest solely in the jurisdiction of
9 CEOs.

10
11 **Response:** The amended language in §801.1(g)(2)(C)(v) is purely nonsubstantive in nature
12 and is changed solely for consistency, without modifying the original intent of the language.
13

14 As noted in the response to the comment on §801.1(g)(2)(C), the Commission is the Texas
15 entity with continuing authority to establish statewide criteria for Board membership beyond
16 the minimum standards for membership of each Board enacted in WIA §117(b)(2). The
17 Commission's rules outlining the membership criteria and the process of reviewing
18 appointments for compliance with these criteria, along with federal and state statutes,
19 regulations, and policies, have been in place for more than eight years. The Commission's
20 compliance and oversight role ensures all Boards are composed according to state and federal
21 law. The Board composition must be consistent with Texas Government Code §2308.256
22 and §801.1(g) of this chapter. Thus, while the Commission does not appoint Board
23 members, it must ensure the appropriate composition according to state and federal law.
24 Boards are composed on a representative-by-representative basis. Without reviewing Board
25 appointments individually, the Commission cannot ensure that the Board membership criteria
26 set out in Texas Government Code §2308.256 and §801.1(g) are in current compliance,
27 particularly as to quantitative measures such as the requirements that representatives of
28 organized labor and community-based organizations constitute not less than 15 percent of
29 Board membership (Texas Government Code §2308.256(a)(2)); not less than one-half of the
30 business and industry representatives must be, if possible, representatives of small
31 businesses, including minority businesses (Texas Government Code §2308.256(b)); and
32 private sector representatives must constitute a majority of the membership (Texas
33 Government Code §2308.256(a)(1)(A)). Moreover, if the Commission waits to examine
34 appointments at the two-year certification date, it is possible that Boards could be out of
35 compliance with state or federal law for long periods of time. Such a result is not in the best
36 interest of the Texas workforce system. With Commission review, the Agency ensures
37 statewide consistency and properly constituted Boards.
38
39
40

41 **§801.16. Agreement for Local Procedures**

42 Section 801.16(a) is modified to correctly cite §801.1(g)(2)(A)(i)(I)–(VI).
43

44 **§801.17. Board Training and Services Plans, Modifications, and Amendments**

45 Section 801.17(b) is reorganized to improve clarity.
46

1
2 **SUBCHAPTER B. ONE-STOP SERVICE DELIVERY NETWORK**

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

4
5 **§801.23. Definitions**

6 Section 801.23(1) states that Certified Full-Service Texas Workforce Centers aid both employers
7 and job seekers.

8
9 Section 801.23(2) states that Certified Texas Workforce Centers aid both employers and job
10 seekers.

11
12 Section 801.23(3), the definition of One-Stop Innovation Plan, is deleted because it no longer
13 applies to the current Incentive Awards contained in Chapter 800, Subchapter D.

14
15 New §801.23(3) defines "competent" as it applies to state qualified veterans. A state qualified
16 veteran must be eligible for both the program and the specific employment or training service for
17 which the veteran is applying.

18
19 New §801.23(4) defines "federal qualified veteran or qualified spouse" for the purpose of
20 implementing federal priority of service as set forth in 38 U.S.C. §4215. A federal qualified
21 veteran is further defined under the Workforce Investment Act (29 U.S.C. §2801(49) or any
22 relevant waivers, or in 38 U.S.C. §4211, and qualified spouse is defined in 38 U.S.C.
23 §4215(a)(1)(B).

24
25 Section 801.23(4), the definition of One-Stop Service Delivery Network, is deleted because it is
26 defined in Chapter 800.2 of this title; therefore, it is unnecessary to redefine the term in this
27 chapter.

28
29 New §801.23(5) defines an "eligible foster youth" as:

30
31 --a "current foster youth," defined as a youth, age 14 or older, who is receiving substitute care
32 services under the managing conservatorship of DFPS, including youth residing in private
33 foster homes, group homes, residential treatment centers, juvenile correctional institutions,
34 and relative care; or

35
36 --a "former foster youth," defined as a youth, not more than 23 years of age, who formerly
37 was under the managing conservatorship of DFPS until:

38
39 --a court transferred conservatorship;

40 --the youth was legally emancipated (i.e., the youth's minority status was removed by a
41 court); or

42 --the youth attained 18 years of age.
43

44 Section 801.23(5), the definition of "Texas Workforce Center Partner," is deleted because it is
45 defined in Chapter 800.2 of this title; therefore, it is unnecessary to redefine the term in this
46 chapter.

1
2 New §801.23(6) defines the term "national emergency," referenced in Texas Government Code
3 §657.002(a), to establish criteria for a qualified veteran. A national emergency declared in
4 accordance with federal law is an emergency declared by the President pursuant to 50 U.S.C.
5 §1621. Because historical data (Congressional Research Service Report for Congress on the
6 National Emergency Powers, February 10, 2006) shows that the nation has been under one or
7 more declared states of national emergency at all times since 1933--a trend that is expected to
8 continue--it is likely that most veterans will meet this criteria to be considered a qualified veteran
9 for purposes of establishing priority of service.

10
11 New §801.23(7) defines "state qualified veteran," as set forth in Texas Government Code
12 §657.002(a) and as directed by HB 2604.

13
14 **§801.25. Texas Workforce Center Standards**

15 Section 801.25(a)(1) states that in addition to employers and students, Certified Texas Workforce
16 Centers shall be available to job seekers.

17
18 Section 801.25(a)(2) includes "referring qualified job seekers to employer job postings" as an
19 example of employment services.

20
21 Section 801.25(a)(4) clarifies that services are tailored to meet the needs of "employers and job
22 seekers."

23
24 Section 801.25(a)(5) replaces Adult Basic Education with Basic Education Skills as a
25 developmental service that is not provided by Certified Texas Workforce Center staff.

26
27 Section 801.25(a)(7) states that a "flexible and market-driven process" shall be implemented.
28 This modification is made to recognize that the Texas workforce system has evolved from a
29 customer-driven to a market-driven system.

30
31 Section 801.25(a)(8) removes references to "kiosk" and "wide area network (WAN)" because
32 they are obsolete for purposes of this paragraph.

33
34 Section 801.25(a)(9) adds that staff have experience and knowledge of required services
35 provided for "employers," as well as job seekers.

36
37 Section 801.25(a)(10) deletes "customer-driven" because it is not necessary.

38
39 Section 801.25(a)(11) is modified for improved clarity.

40
41 Section 801.25(a)(13) is modified for better clarity.

42
43 Section 801.25(a)(14) adds WorkInTexas.com as a service to be maintained in a user-friendly
44 resource center.

1 Section 801.25(a)(15) sets out the program services to be administered by Certified Texas
2 Workforce Centers.
3
4 New §801.25(a)(16) sets out the program services to be provided by Certified Texas Workforce
5 Centers.
6
7 New §801.25(a)(19) requires that Certified Texas Workforce Centers ensure that federal
8 qualified veterans and qualified spouses, and state qualified veterans, receive priority in the
9 receipt of services, as set forth in §801.31.
10
11 New §801.25(a)(20) requires that Certified Texas Workforce Centers ensure that eligible foster
12 youth receive priority in the receipt of services, as set forth in §801.31.
13
14 New §801.25(a)(21) requires that Certified Texas Workforce Centers comply with the provisions
15 of the memorandum of understanding between the Board and DFPS to further the objectives of
16 the PAL program, as required by Texas Family Code §264.121.
17
18 Certain paragraphs in §801.25 have been renumbered to accommodate additions or deletions.
19
20 **§801.26. One-Stop Innovation Plan**
21 Section 801.26 is repealed because the One-Stop Innovation Plan is no longer required.
22
23 **§801.27. Texas Workforce Center Partners**
24 Section 801.27(b)(5) is removed because the Welfare-to-Work program has ended.
25
26 Section 801.27(c)(1) removes obsolete references to the "Texas Rehabilitation Commission" and
27 the "Texas Commission for the Blind" and replaces both with the reference to the "Texas
28 Department of Assistive and Rehabilitative Services."
29
30 Certain paragraphs in §801.27 have been renumbered to accommodate additions or deletions.
31
32 **§801.28. Services Available Through the One-Stop Service Delivery Network**
33 Section 801.28(a) is clarified by adding that Certified Texas Workforce Centers must provide
34 "access to" core services.
35
36 Section 801.28(a)(2) specifies that intake may include "reemployment services."
37
38 Section 801.28(a)(11) removes the reference to "Welfare to Work activities" because the
39 Welfare-to-Work program has ended.
40
41 Section 801.28(b)(1) removes the reference to adults and dislocated workers and identifies "job
42 seekers" as individuals who may receive comprehensive and specialized assessments of their
43 skill levels and service needs.
44
45 Section 801.28(c)(8) clarifies that training may include "referrals to Adult Basic Education" and
46 literacy activities.

1
2 The text of §801.28(d)(1) is incorporated into §801.28(d).

3
4 Sections 801.28(d)(2) and 801.28(d)(3) are deleted because this information is set out in
5 §801.27.

6
7 **§801.31. Priority for Workforce Services**

8 New §801.31, Priority for Workforce Services, is added to implement the provisions of HB 2604
9 and SB 6 requiring state qualified veterans to receive priority for state-funded employment
10 assistance and training services, and eligible foster youth to receive priority for federal and state-
11 funded services. To ensure that state qualified veterans and eligible foster youth receive priority
12 over all other equally qualified individuals, they must be identified at the initial point of contact
13 and then notified of their entitlement to a priority for services. Individuals may identify
14 themselves at the initial point of contact or, in the case of eligible foster youth, DFPS staff may
15 make a referral for workforce services.

16
17 In addition to the priority of service directed by HB 2604 for state-funded employment assistance
18 or job training services, Boards must continue, in accordance with 38 U.S.C. §4215, providing
19 federal priority of service for federal qualified veterans and qualified spouses in the receipt of
20 services funded in whole or in part by DOL. As previously stated, there are currently two
21 federal definitions for veterans for DOL-funded programs. The Commission has requested a
22 waiver of the WIA federal definition to align these definitions.

23
24 **SUBCHAPTER C. THE INTEGRITY OF THE TEXAS WORKFORCE SYSTEM**

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

26
27 **§801.51. Purpose and General Provisions**

28 The dates in §801.51(d) and §801.51(e)(4) are deleted because they are no longer relevant.

29
30 New §801.51(f) adds the requirements of the Open Meetings Act with regard to Boards
31 conducting business and making policy decisions in open meetings, posting appropriate notice of
32 open meetings for the public, and preparing and retaining minutes for each open meeting.

33
34 **Comment:** Three commenters disagreed with the proposed rules that would require all
35 public business or public policy over which the Board has supervision or control to be
36 approved in an open meeting of the Board. The commenters stated that the Commission
37 makes no distinction between operational and management policies affecting day-to-day
38 operations and strategic policy. The commenters also added that this interpretation and
39 application of the Open Meetings Act would grind local operations to a virtual halt.

40
41 **Response:** Section 801.51(f) merely tracks the existing statutory requirements of the Open
42 Meetings Act (Texas Government Code, Chapter 551) to which Boards are expressly subject
43 as governmental bodies under §551.001(3)(I). Section 551.001(2) defines a deliberation by a
44 governmental body as a verbal exchange during a meeting concerning an issue "within the
45 jurisdiction of the governmental body or any public business." Thus, any deliberation or
46 action by a governmental body, which includes a Board, must be taken in a duly posted open

1 meeting pursuant to the Open Meetings Act. However, that is a separate issue from the
2 division of responsibilities between the Board and its executive director and staff, who
3 generally will be performing day-to-day operational duties. The Commission notes that the
4 Office of the Attorney General is ultimately responsible for interpreting the Open Meetings
5 Act. On an ongoing basis, however, the Commission urges Boards to seek advice from their
6 legal counsel or the Office of the Attorney General on distinguishing what types of policy
7 issues to bring before the Board for consideration in an open meeting.
8
9

10 **COMMENTS WERE RECEIVED FROM:**

- 11 Janie Bates, Executive Director, Texoma Workforce Development Board
- 12 Francisco Castellanos, Executive Director, Cameron County Workforce Development Board
- 13 Johnny Griffin, Executive Director, Concho Valley Workforce Development Board
- 14 Charlene Meadows, Executive Director, Deep East Texas Workforce Development Board
- 15 Alan Miller, Executive Director, Alamo Workforce Development Board
- 16 Kay O'Dell, Executive Director, North East Texas Workforce Development Board
- 17 Homer M. Bates
- 18 No Name Given

19
20
21 The Agency hereby certifies that the proposal has been reviewed by legal counsel and found to
22 be within the Agency's legal authority to adopt.

23
24 The rules are adopted under Texas Labor Code §301.0015 and §302.002(d), which provide the
25 Texas Workforce Commission with the authority to adopt, amend, or repeal such rules as it
26 deems necessary for the effective administration of Agency services and activities.
27

28 The adopted rules affect Title 4, Texas Labor Code, particularly Chapters 301 and 302; Texas
29 Family Code, Chapter 264; and Texas Government Code, Chapter 551 and Chapter 2308.
30

1 **SUBCHAPTER A. GENERAL PROVISIONS**

2
3 **§801.1. Requirements for Formation of Local Workforce Development Boards**

4
5 (a) Purpose of Rule.

6
7 (1) Upon application by the chief elected officials (CEOs) and approval of the
8 Commission, the Commission shall forward an application to form a Local
9 Workforce Development Board (Board) to the Governor.

10
11 (2) Before an application may be submitted to the Governor, all requirements of
12 this section shall be met.

13
14 (b) State Law. The formation of Boards is governed by the Workforce and Economic
15 Competitiveness Act, Texas Government Code, Chapter 2308.

16
17 (c) Chief Elected Official Agreement. Creation of a Board requires agreement by at
18 least three-fourths of the CEOs in the local workforce development area (workforce
19 area) who represent units of general local government, including all of the CEOs
20 who represent units of general local government having populations of at least
21 200,000. The elected officials agreeing to the creation of the Board shall represent at
22 least 75% of the population of the workforce area.

23
24 (d) Chief Elected Officials. The CEOs may, and are encouraged to, consult with local
25 officials other than the ones delineated below. The following officials are designated
26 as the CEOs for the purpose of establishing agreements to form Boards:

27
28 (1) Mayors.

29
30 (A) The mayor of each city with a population of at least 100,000;

31
32 (B) or, if there is no city with a population of greater than 100,000, the mayor
33 of each city with a population greater than 50,000;

34
35 (C) or, if there are no cities with a population of greater than 50,000, the
36 mayor of the largest city in the workforce area.

37
38 (D) For purposes of this section, municipal population will be determined by
39 the figure last reported by the Texas State Data Center at the time of
40 submission of the application to the Commission.

41
42 (2) All county judges included in a workforce area as designated by the Governor.

43
44 (e) Time of Application. CEOs in a workforce area may not establish a Board until the
45 Governor has designated that area as a workforce area as provided in the Workforce
46 and Economic Competitiveness Act, Texas Government Code, Chapter 2308.

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- (f) Applications shall meet all Governor-approved criteria for the establishment of Boards.

- (g) Procedures for Formation of a Board. The CEOs shall comply with the following procedures to form a Board.
 - (1) Public process procedure. If three-fourths of the CEOs, as defined in subsection (d) of this section, agree to initiate procedures to establish a Board, they shall conduct a public process, including at least one public meeting, to consider the views of all affected organizations before making a final decision to form a Board. This public process may include, but is not limited to, notices published in various media and surveys for public comment.

 - (2) Application procedure.
 - (A) The CEOs shall submit an application to the Commission. This application shall include evidence of the actions required by paragraph (1) of this subsection. As a part of the application, each of the CEOs, who is in agreement regarding the formation of a Board, shall execute the following documents:
 - (i) An interlocal agreement delineating:
 - (I) The purpose of the agreement;
 - (II) The process that will be used to select the CEO who will act on behalf of the other CEOs and the name of such CEO if the person has been selected;
 - (III) The procedure that will be followed to keep those CEOs informed regarding Board activities;
 - (IV) The initial size of the Board;
 - (V) How resources allocated to the workforce area will be shared among the parties to the agreement;
 - (VI) The process to be used to appoint the Board members, which shall be consistent with applicable federal and state laws; and
 - (VII) The terms of office of the members of the Board.

 - (ii) An acknowledgment in the following form: We, the chief elected officials of the (Name) Workforce Development Area, acknowledge

1 that the following are responsibilities and requirements pursuant to
2 the formation of the Board:

- 3
- 4 (I) The Board will assume the responsibilities for the following
5 committees and councils that will be replaced by the Board
6 unless otherwise provided in Texas Government Code,
7 Chapter 2308: private industry council, quality workforce
8 planning committee, job service employer committee, and
9 local general vocational program advisory committee;
 - 10
 - 11 (II) At least one Texas Workforce Center shall be established
12 within 180 days of Board certification;
 - 13
 - 14 (III) The Board shall have its own independent staff and not be a
15 provider of workforce services, unless the Board secures a
16 waiver of these provisions;
 - 17
 - 18 (IV) The CEOs shall enter into a partnership agreement with the
19 Board to designate a grant recipient to receive, be accountable
20 for, and be liable for any misuse of block grant funds;
 - 21
 - 22 (V) The partnership agreement shall also specify the entity that
23 will administer the programs, which may be separate from the
24 entity that receives the funds from the state;
 - 25
 - 26 (VI) The partnership agreement shall define the process through
27 which the Boards and CEOs will develop the strategic and
28 operational plans, including the training plan required under
29 the Workforce Investment Act (WIA); and
 - 30
 - 31 (VII) The strategic plan shall be reviewed by both the Commission
32 and the Texas Workforce Investment Council (TWIC), and
33 approved by the Governor before block grants will be
34 available to the workforce area.
 - 35

36 (B) The application shall include evidence that any affected existing Board has
37 been notified and agrees that its functions and responsibilities will be
38 assumed by the proposed Board upon the proposed Board's final
39 certification by the Governor.

40

41 (C) The application shall include the names and affiliations of individuals
42 recommended for Board membership, with documentation that CEOs
43 followed the nomination process specified in applicable state and federal
44 law, including Texas Government Code §2308.255 and §2308.256.

45

- 1 (i) Private sector members shall be owners of business concerns, chief
2 executives, chief operating officers of nongovernmental employers,
3 or other private sector executives who have substantial management
4 or policy responsibility. To be eligible to represent the private
5 sector, at least 51% of an individual's annual income shall be from
6 private sector sources.
7
- 8 (ii) Private sector membership should represent the composition of the
9 local pool of employers. The private sector membership should
10 include representatives of the region's larger employers and
11 emerging growth industries. Primary consideration should be given
12 to private sector employers who do not directly provide employment
13 and workforce training services to the general public. CEOs shall
14 develop a profile of the workforce area's major industries using
15 locally obtained information and state-published data. The Agency
16 shall provide relevant labor market information, including data that
17 identifies employment trends, emerging high-growth, high-demand
18 industries, the size of local employers, and other data needed to
19 assist CEOs in developing the employer profile. Documentation
20 submitted with the application shall show how the regional
21 employer profile is reflected in the Board membership.
22
- 23 (iii) Board membership shall include representatives of local organized
24 labor organizations, community-based organizations, educational
25 agencies, vocational rehabilitation agencies, public assistance
26 agencies, economic development agencies, the public employment
27 service, local literacy councils, and adult basic and continuing
28 education organizations as required by law.
29
- 30 (iv) Representatives of local organized labor organizations shall be
31 nominated by local labor federations unless no employees in the
32 workforce area are represented by such organizations, in which case
33 nominations may be made by other representatives of employees. A
34 labor federation is defined as an alliance of two or more organized
35 labor unions for the purpose of mutual support and action.
36
- 37 (v) Board nominees shall be actively engaged in the organization,
38 enterprise, or field that they are nominated to represent. Board
39 nominees shall have an existing relationship with the workforce area
40 through residence or employment within the workforce area.
41
- 42 (vi) At least one of the members of a Board appointed under Texas
43 Government Code §2308.256(a) shall, in addition to the
44 qualifications required for the members under that subsection, have
45 expertise in child care or early childhood education.
46

1 (vii) At least one of the members of a Board appointed under Texas
2 Government Code §2308.256(a) shall, in addition to the
3 qualifications required for the members under that subsection:

4
5 (I) be a veteran as defined in Texas Government Code
6 §2308.251(2); and

7
8 (II) have an understanding of the needs of the local veterans'
9 population and willingness to represent the interests and
10 concerns of veterans.

11
12 (D) No individual member shall be a representative of more than one sector or
13 category described in this section, except as statutorily permitted for one
14 or more members having:

15
16 (i) expertise in child care or early childhood education; or

17
18 (ii) the qualifications set forth in subsection (g)(2)(C)(vii) of this
19 section.

20
21 (E) The application shall include documentary evidence substantiating
22 compliance with the application procedure, including but not limited to,
23 written agreements, minutes of public meetings, copies of correspondence,
24 and such other documentation as may be appropriate.

25
26 **§801.2. Waivers.**

27
28 (a) Purpose of Rule. Texas Government Code §2308.264 , §2308.267, and §2308.312
29 set forth prohibitions regarding service delivery, Board staffing, and developmental
30 services. Only under circumstances that fit the criteria specified in those statutes will
31 requests for waivers be granted.

32
33 (b) Independent Service Delivery. A Board is prohibited from directly providing
34 workforce training and services, including operational functions normally associated
35 with such services such as intake, eligibility determination, assessment, and referral,
36 unless a waiver is obtained.

37
38 (c) Separate Staffing. Board staff shall be employed separately and independently of
39 any person that provides workforce training and services, as described in subsection
40 (b) of this section, unless the Board arranges for independent evaluation of any other
41 workforce services provided by the staffing organization and obtains a waiver.

42
43 (d) Developmental Services. A person who provides one-stop services at a Texas
44 Workforce Center shall not also provide developmental services unless a waiver is
45 obtained.

1 (e) Requesting a Waiver.

- 2
- 3 (1) Waiver requests shall be submitted to the Commission and contain detailed
- 4 justification as specified in the respective statutes. The Commission shall
- 5 review and forward a recommendation to TWIC for consideration. TWIC will
- 6 forward its recommendation to the Governor for approval.
- 7
- 8 (2) In recommending action on such requests, the Commission shall apply only the
- 9 criteria specified in the respective statutes.
- 10
- 11 (3) The Commission may require a Board to submit documentation as set forth in
- 12 Workforce Development Letters to support its waiver request.
- 13

14 (f) Duration of Waiver.

- 15
- 16 (1) A waiver may be granted for a period less than, but not to exceed, the effective
- 17 term of an approved plan and budget.
- 18
- 19 (2) A waiver may be conditioned upon the Board's completion of steps taken to
- 20 eliminate the need for a waiver.
- 21

22 **§801.11. Board Member Nomination and Appointment.**

- 23
- 24 (a) For each Board member nomination, the nominating organization shall submit to the
- 25 CEOs of the workforce area a completed Board Nomination Slate in a form
- 26 established by the Commission.
- 27
- 28 (b) Documentation in the form of a curriculum vitae, resume, or work history supporting
- 29 the qualifications of the nomination shall accompany the Board Nomination Slate.
- 30
- 31 (c) Once nominations are submitted to and appointments are made by the CEOs, the
- 32 Board Appointments form, in a format established by the Commission, and
- 33 documentation shall be submitted to the Agency's Workforce Development Division.
- 34 Only nominations submitted by the CEOs may be accepted by the Commission. The
- 35 documentation submitted by the CEOs shall include the following:
- 36
- 37 (1) Board Nomination Slate for each appointment; and
- 38
- 39 (2) Board Appointments form, indicating the official beginning and expiration
- 40 dates of all appointments.
- 41
- 42 (d) Individuals shall be recommended for Board membership in accordance with
- 43 §801.1(g)(2)(C) of this subchapter.
- 44
- 45 (e) Board reappointments shall be processed under the provisions of this chapter.
- 46

1
2 **§801.16. Agreement for Local Procedures.**
3

- 4 (a) The CEOs in a workforce area shall enter into an Agreement for Local Procedures
5 with the Board as required by Texas Government Code §2308.253(g) and by
6 §801.1(g)(2)(A)(i)(I)–(VI) of this subchapter.
7
- 8 (b) The Agreement for Local Procedures shall be signed by the current CEOs and the
9 Board Chair.
10
- 11 (c) Any amendment to an Agreement for Local Procedures, change to a Board's
12 organizational plan or bylaws, or notice of an election of a new CEO or Board Chair
13 shall be submitted to the Agency within 15 calendar days of the adoption of such
14 amendment, change, or election.
15
- 16 (d) If a CEO or Board Chair is newly elected during the then-current, two-year program
17 planning cycle, such newly elected individual shall submit to the Agency a written
18 statement acknowledging that he or she:
19
- 20 (1) has read, understands, and will comply with the current Agreement for Local
21 Procedures; and
22
 - 23 (2) reserves the option to request negotiations to amend the Agreement for Local
24 Procedures at any time during the official's tenure as CEO or Board Chair.
25
- 26 (e) All Agreements for Local Procedures and Board organizational plans or bylaws shall
27 state that Board members will not be permitted to delegate any Board duties to
28 proxies or alternates.
29

30 **§801.17. Board Training and Services Plans, Modifications, and Amendments.**
31

- 32 (a) Purpose of Rule.
33
- 34 (1) All workforce training and services plans and budgets developed by a Board
35 pursuant to state and federal law shall be submitted to the Agency's Workforce
36 Development Division for review.
37
 - 38 (2) Before a plan and budget is forwarded by the Commission to TWIC for
39 recommendation to the Governor for approval, all requirements of this section
40 shall be met.
41
- 42 (b) Standards for Submission. The Agency shall provide guidelines for strategic
43 planning and budgeting to Boards. A local workforce training and services plan and
44 budget shall be reviewed according to criteria established by the Agency.
45

1 (c) Plan Modification or Amendment. An approved plan and budget may be changed by
2 either modification or amendment. Either method of change shall be submitted to
3 the Agency for review before implementation.

4
5 (1) A modification is a substantial revision of a plan and budget. The Agency
6 shall provide criteria to Boards that define what constitutes a substantial
7 revision. Each modification shall provide evidence that a majority of the
8 CEOs of a workforce area or their designee or designees with signatory
9 authority have approved the modification.

10
11 (2) An amendment is a minor adjustment to a plan and budget. The Agency shall
12 provide criteria to Boards that define what constitutes a minor adjustment. An
13 amendment does not require approval by a majority of the CEOs of a
14 workforce area.

15
16 **Subchapter B. One-Stop Service Delivery Network**

17
18 **§801.21. Scope and Purpose.**

19
20 (a) The purpose of this subchapter is to set forth the rules relating to the One-Stop
21 Service Delivery Network as set forth in Texas Government Code, Chapter 2308;
22 Texas Labor Code, Chapters 301 and 302; and WIA §121 (29 U.S.C.A. §2841). It is
23 the intent of the Commission, in partnership with Boards, to facilitate the
24 development and maintenance of the One-Stop Service Delivery Network such that
25 information and services responsive to individual needs are available to all
26 customers. The One-Stop Service Delivery Network shall be evaluated against
27 established levels of certification as well as any additional standards developed by
28 the Commission to ensure the continuous improvement of the system.

29
30 (b) The rules contained in this subchapter shall apply, except that to the extent of any
31 conflict, the provisions of Texas Government Code, Chapter 2803 and §801.2 and
32 §801.54 of this chapter shall govern.

33
34 **§801.22. Requirement to Maintain a One-Stop Service Delivery Network.**

35
36 Each Board shall maintain a One-Stop Service Delivery Network, consistent with WIA,
37 state law, and this subchapter. The One-Stop Service Delivery Network shall include at
38 least one Certified Full-Service Texas Workforce Center providing the core services set
39 forth in §801.28(a) of this subchapter.

40
41 **§801.23. Definitions.**

42
43 In addition to the definitions contained in §800.2 of this title, the following words or
44 terms shall have the following meanings, unless the context clearly indicates otherwise.
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46
- (1) **Certified Full-Service Texas Workforce Center** -- A local full-service workforce center that has integrated service functions to aid employers and job seekers in all aspects of employment and training in a seamless, nonprogram-specific manner, and has been found to meet the requirements of a Full-Service Texas Workforce Center set out in §801.25(b) of this subchapter.
 - (2) **Certified Texas Workforce Center** -- A local workforce center that provides integrated services to aid employers and job seekers in all aspects of employment and training in a seamless nonprogram-specific manner, and has been found to meet the requirements of a Certified Texas Workforce Center set out in §801.25(a) of this subchapter.
 - (3) **Competent** -- A federal or state qualified veteran who meets the eligibility requirements of the program from which he or she is seeking services, and is determined eligible for a specific employment and training service funded by that program.
 - (4) **Federal Qualified Veteran or Qualified Spouse** -- For purposes of implementing priority of service for DOL-funded employment and training programs, the term "federal qualified veteran or qualified spouse" is defined as:
 - (A) A veteran as defined:
 - (i) under the Workforce Investment Act (29 U.S.C. §2801), or by any relevant waivers, as an individual who served in the active military, naval, or air service, and who was discharged or released from such service under conditions other than dishonorable; or
 - (ii) in 38 U.S.C. §4211 as a person who:
 - (I) served on active duty for a period of more than 180 days and was discharged or released therefrom with other than a dishonorable discharge;
 - (II) was discharged or released from active duty because of a service-connected disability; or
 - (III) as a member of a reserve component under an order to active duty pursuant to 10 U.S.C. §12301(a), (d), or (g), §12302, or §12304, served on active duty during a period of war or in a campaign or expedition for which a campaign badge is authorized and was discharged or released from such duty with other than a dishonorable discharge.
 - (B) The spouse of any of the following individuals:

- 1
2 (i) Any veteran who died of a service-connected disability.
3
4 (ii) Any member of the Armed Forces serving on active duty who, at the
5 time of application for assistance under this section, is listed,
6 pursuant to 37 U.S.C. §556 and regulations issued thereunder, by the
7 Secretary concerned in one or more of the following categories and
8 has been so listed for a total of more than 90 days:
9
10 (I) Missing in action;
11
12 (II) Captured in line of duty by a hostile force; or
13
14 (III) Forcibly detained or interned in line of duty by a foreign
15 government or power.
16
17 (iii) Any veteran who has a total disability resulting from a service-
18 connected disability.
19
20 (iv) Any veteran who died while a disability, as defined in clause (iii) of
21 this subsection, was in existence.
22

23 (5) **Eligible Foster Youth** -- An eligible foster youth is a:

- 24
25 (A) **Current Foster Youth** -- A youth, age 14 or older, who is receiving
26 substitute care services under the managing conservatorship of the Texas
27 Department of Family and Protective Services (DFPS). This includes
28 youth residing in private foster homes, group homes, residential treatment
29 centers, juvenile correctional institutions, and relative care; or
30
31 (B) **Former Foster Youth** -- A youth up to 23 years of age, who formerly was
32 under the managing conservatorship of DFPS, until:
33
34 (i) the conservatorship was transferred by a court;
35
36 (ii) the youth was legally emancipated (i.e., the youth's minority status
37 was removed by a court); or
38
39 (iii) the youth attained 18 years of age.
40

41 (6) **National Emergency** -- A condition declared by the President by virtue of
42 powers previously vested in that office to authorize certain emergency actions
43 to be undertaken in the national interest pursuant to 50 U.S.C. §1621.
44

45 (7) **State Qualified Veteran** -- An individual who meets the criteria of Texas
46 Government Code §657.002(c) is entitled to a preference (i.e., priority) for

1 training or assistance under a job training or employment assistance program
2 or service funded in whole or in part by state funds if the individual:

3
4 (A) served in the military for not less than 90 consecutive days during a
5 national emergency declared in accordance with federal law or was
6 discharged from military service for an established service-connected
7 disability;

8
9 (B) was honorably discharged from military service; and

10
11 (C) is competent as defined in paragraph (1) of this section.
12

13 **§801.24. Texas Workforce Center Certification Levels.**

- 14
15 (a) All Texas Workforce Centers shall meet the basic workforce center standards set out
16 in §801.25(a) of this subchapter.
17
18 (b) In order to obtain certification as a Certified Full-Service Texas Workforce Center, a
19 Texas Workforce Center shall meet full-service standards set out in §801.25(a) and
20 §801.25(b) of this subchapter.
21
22 (c) The Commission may establish additional levels of certification to ensure continuous
23 development of the One-Stop Service Delivery Network.
24

25 **§801.25. Texas Workforce Center Standards.**

- 26
27 (a) Basic Workforce Center Standards. The Commission has established basic standards
28 that shall be met by all Texas Workforce Centers. Certified Texas Workforce
29 Centers shall:
30
31 (1) be available to employers, job seekers, and students throughout the workforce
32 area;
33
34 (2) provide access to information and services, including employment services,
35 such as referring qualified job seekers to employer job postings;
36
37 (3) address individual needs of customers by providing processes for basic or
38 enhanced methods of accessing services;
39
40 (4) provide services tailored to meet the needs of employers and job seekers and
41 include: job screening and referral, labor market information, a common
42 intake and eligibility determination process, an independent assessment and
43 service strategy, centralized and continuous case management and counseling,
44 access to Individual Training Account (ITA) services for education and
45 training needs, support services (including access to subsidized child care),

1 student loans, and other forms of financial assistance required to participate in
2 and complete training;

3
4 (5) ensure that developmental services, such as General Educational Development,
5 English as a Second Language, or Basic Education Skills are not provided by
6 Texas Workforce Center staff;

7
8 (6) provide each customer with information on local high-growth, high-demand
9 occupations and industries, projected wage level upon completion of training
10 programs, and performance of training providers when requested;

11
12 (7) implement a flexible and market-driven process for services;

13
14 (8) ensure access throughout the workforce area by developing electronic methods
15 for service delivery, such as the Internet;

16
17 (9) ensure that staff is experienced and knowledgeable in all required services for
18 employers and job seekers;

19
20 (10) implement a tiered service delivery strategy that includes self-directed service,
21 job search assistance in group settings, access to information on filing a claim
22 for Unemployment Insurance benefits, and specialized, enhanced staff-assisted
23 services;

24
25 (11) prepare and make available to customers understandable information packages
26 that briefly describe services; locations; self-directed options; job openings;
27 career exploration methods; labor market information; high-growth, high-
28 demand job information; training and educational opportunities, and associated
29 institutional performance information; and that also provide a mechanism for
30 feedback on services provided;

31
32 (12) implement a timely and efficient referral and follow-up process for
33 employment-related services;

34
35 (13) provide independent assessments of individual needs that include assessment
36 of literacy levels for Choices customers;

37
38 (14) maintain a user-friendly resource center that makes available computerized
39 information systems with access to labor market information, demographics,
40 occupations, educational opportunities, and WorkInTexas.com, the statewide
41 job matching system;

42
43 (15) administer services, as set forth in §801.28(a), of the following programs:
44 WIA Adults, Dislocated Workers, and Youth; Food Stamp Employment and
45 Training (FSE&T); Temporary Assistance for Needy Families (TANF)
46 Choices; access to subsidized child care services; Wagner-Peyser Employment

1 Service (ES); Trade Adjustment Assistance (TAA); and Project Reintegration
2 of Offenders (Project RIO). Boards shall ensure that staff is available to
3 provide these services during all Texas Workforce Center operating hours;
4

- 5 (16) provide access to services, as set forth in §801.28(a), of the following
6 programs: veterans' employment and training; Adult Basic Education;
7 National Literacy Act; noncertificate, postsecondary career and technology
8 training; Senior Community Service Employment Program; Apprenticeship
9 Training Program; National and Community Service Act; and Unemployment
10 Insurance;
11
- 12 (17) ensure availability through the Texas Workforce Centers of other services for
13 the programs listed in paragraph (15) of this section;
14
- 15 (18) provide reasonable accommodation and accessibility in accordance with the
16 Americans with Disabilities Act;
17
- 18 (19) ensure that federal qualified veterans and qualified spouses, and state qualified
19 veterans, receive priority as set forth in §801.31 of this subchapter;
20
- 21 (20) ensure that eligible foster youth receive priority as set forth in §801.31 of this
22 subchapter;
23
- 24 (21) comply with the provisions of the memorandum of understanding between the
25 Board and DFPS to further the objectives of the Preparation for Adult Living
26 program, as required by Texas Family Code §264.121; and
27
- 28 (22) meet each of the requirements for Certified Full-Service Texas Workforce
29 Centers within twelve months of certification as a Texas Workforce Center.
30

31 (b) Full-Service Standards. The Commission has established specific standards for a
32 Texas Workforce Center to receive full-service certification. A Certified Full-
33 Service Texas Workforce Center shall meet each of the following requirements
34 within twelve months of certification as a Texas Workforce Center. Certified Full-
35 Service Texas Workforce Centers shall:
36

- 37 (1) design a customer-friendly waiting area and implement written procedures that
38 define the steps taken to minimize customer wait time in the reception area and
39 in other areas of the Texas Workforce Center;
40
- 41 (2) develop written procedures for following up on referrals to determine customer
42 receipt of services, appropriateness of the referral to address the customer's
43 needs, and the extent of customer satisfaction with the referral process and
44 service received;
45

- 1 (3) provide customer access to WorkInTexas.com; resume preparation tools,
2 including software; and the Internet;
3
- 4 (4) provide consumer information on the quality of education and training
5 providers and include a mechanism for customer feedback on personal
6 experience with such providers;
7
- 8 (5) develop and display a menu of services with a corresponding fee schedule for
9 services available at the Certified Full-Service Texas Workforce Center;
10
- 11 (6) demonstrate on-site management of all personnel, a plan for cross-training staff
12 in all services, minimal programmatic specialization of staff, nonduplication of
13 efforts, removal of redundancies within program activities, and maximum
14 flexibility to optimize utilization of resources;
15
- 16 (7) provide basic labor exchange services, including access to job orders for
17 applicants, access to applicants for employers, and screening and referral
18 methods for matching appropriate applicants and job orders; and
19
- 20 (8) provide centralized case management activities for specialized populations,
21 such as the welfare, veterans, dislocated workers, and disabled populations.
22

23 **§801.27. Texas Workforce Center Partners.**

- 24
- 25 (a) Each Board shall maintain one or more memorandum of understanding that sets out
26 the obligations of the Board and each partner in the operation of the One-Stop
27 Service Delivery Network in the workforce area. Each Board shall obtain a general
28 authorization from the CEOs for actions taken under this subsection.
29
- 30 (b) Subject to the limitations referenced in §801.29 of this subchapter, relating to
31 Limitations on Delivery of Services, the required Texas Workforce Center Partners
32 are the entities that administer the following services in the workforce areas:
33
 - 34 (1) WIA Adults, Dislocated Workers, and Youth;
 - 35
 - 36 (2) FSE&T;
 - 37
 - 38 (3) TANF Choices;
 - 39
 - 40 (4) subsidized child care;
 - 41
 - 42 (5) Wagner-Peyser ES;
 - 43
 - 44 (6) TAA;
 - 45
 - 46 (7) veterans' employment and training;

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- (8) Adult Basic Education;
- (9) National Literacy Act;
- (10) noncertificate, postsecondary career and technology training;
- (11) Senior Community Service Employment Program;
- (12) Apprenticeship Training Program;
- (13) National and Community Service Act;
- (14) Project RIO; and
- (15) Unemployment Insurance.

(c) Other entities that provide services of benefit to workforce development, including federal, state, and local programs as well as programs in the private sector, may be voluntary partners in the One-Stop Service Delivery Network if the Board and CEOs agree on each entity's participation. The entities include, but are not limited to, those that provide:

- (1) vocational rehabilitation services (for example, the Texas Department of Assistive and Rehabilitative Services);
- (2) Migrant and Seasonal Farmworker employment services;
- (3) secondary and postsecondary vocational education and training activities;
- (4) community services block grant programs;
- (5) employment and training services provided through grantees of the U. S. Department of Housing and Urban Development;
- (6) Job Corps services for youth; and
- (7) Native American programs.

§801.28. Services Available Through the One-Stop Service Delivery Network.

(a) Core Services. All Certified Texas Workforce Centers shall provide access to core services, as defined in WIA § 134(d)(2) (29 U.S.C.A. § 2864 (d)(2)) and Texas Government Code, Chapter 2308, including:

- (1) outreach;

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- (2) intake, which may include reemployment services, and orientation to the information and services available through the One-Stop Service Delivery Network;
- (3) determinations of individuals' eligibility for programs funded through the Commission that are available through the One-Stop Service Delivery Network;
- (4) initial assessment of skill levels, aptitudes, abilities, and support service needs;
- (5) job search and placement assistance and, where appropriate, career counseling;
- (6) provision of performance information and program cost information on eligible providers of training services as described in §§841.31–841.47 of this title (relating to Training Provider Certification), provided by program, and eligible providers of youth activities described in WIA § 123 (29 U.S.C.A. §2843), providers of adult education described in Title II of WIA, providers of postsecondary vocational education activities and vocational education activities available to school dropouts under the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C.A. §2301 et seq.), and providers of vocational rehabilitation program activities described in Title I of the Rehabilitation Act of 1973 (29 U.S.C.A. §720 et seq.);
- (7) provision of information regarding how the workforce area is performing on the local performance measures and any additional performance information with respect to the One-Stop Service Delivery Network in the workforce area;
- (8) provision of information regarding filing claims for Unemployment Insurance;
- (9) provision of employment statistics information, including the provision of accurate information relating to local, regional, and national labor market areas, including job vacancy listings in such labor market areas, information on job skills necessary to obtain the jobs listed, and information related to local high-growth, high-demand jobs and the earnings and skill requirements for such jobs;
- (10) provision of accurate information relating to the availability of support services, including child care and transportation, available in the workforce area, and referral to such services, as appropriate;
- (11) assistance in establishing eligibility for Choices, FSE&T, and programs of financial aid assistance for training and education that are available in the workforce area; and

1 (12) follow-up services, including counseling regarding the workplace, for youth
2 participants in WIA activities authorized under Chapter 841 of this title,
3 relating to WIA, who are placed in unsubsidized employment, for not less than
4 12 months after the first day of the employment, as appropriate.
5

6 (b) Intensive Services. A One-Stop Service Delivery Network shall provide access to
7 services as described in the Texas Government Code, Chapter 2308, and intensive
8 services as described in WIA §134(d)(3) (29 U.S.C.A. §2864(d)(3)), which may
9 include the following:
10

11 (1) comprehensive and specialized assessments of the skill levels and service
12 needs of job seekers, such as diagnostic testing and use of other assessment
13 tools, in-depth interviewing, and evaluation to identify employment barriers
14 and employment goals;
15

16 (2) development of an Individual Employment Plan and service strategy to
17 identify the employment goals, appropriate achievement objectives, and
18 appropriate combination of services for the participant to achieve employment
19 goals and objectives;
20

21 (3) group counseling;
22

23 (4) individual counseling and career planning;
24

25 (5) centralized and continuous case management; and
26

27 (6) short-term prevocational services, including learning skills, communication
28 skills, interviewing skills, punctuality, personal maintenance skills, and
29 professional conduct to prepare individuals for unsubsidized employment or
30 training.
31

32 (c) Training Services. A One-Stop Service Delivery Network shall provide access to
33 training services as described in WIA §134(d)(4) (29 U.S.C.A. §2864(d)(4)) and
34 Texas Government Code, Chapter 2308. Training services may include the
35 following:
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37 (1) high-growth, high-demand industry skills training, including training for
38 nontraditional employment;
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40 (2) on-the-job training;
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42 (3) programs that combine workplace training with related instruction;
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44 (4) training programs operated by the private sector;
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46 (5) skills upgrading and retraining;

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2 (6) entrepreneurial training;
3
4 (7) job readiness training;
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6 (8) referrals to Adult Basic Education and literacy activities in combination with
7 services with activities described in paragraphs (1)–(7) of this subsection; and
8
9 (9) customized training conducted with a commitment by an employer or group of
10 employers to employ an individual upon successful completion of training.
11

12 (d) Other Services and Activities. A One-Stop Service Delivery Network shall offer
13 access to all other permissible local employment and training activities included in
14 the local workforce development plan, which may include discretionary one-stop
15 activities, support services, and needs-related payments as set forth in WIA 134(e)
16 §(29 U.S.C.A. §2864(e)).
17

18 **§801.29. Limitations on Delivery of Services.**
19

20 Delivery of services under §801.28 of this title, relating to Services Available Through
21 the One-Stop Service Delivery Network, is subject to state law requirements on Board
22 organization and service delivery structure as found in Texas Government Code, Chapter
23 2308, and this chapter, as well as eligibility requirements and limitations of individual
24 programs.
25

26 **§801.31. Priority for Workforce Services.**
27

- 28 (a) Boards shall ensure that federal qualified veterans and qualified spouses, state
29 qualified veterans, and eligible foster youth who are entitled to receive priority over
30 all other equally qualified individuals in the receipt of workforce services are:
31
32 (1) determined eligible for priority at the initial point of contact; and
33
34 (2) notified of their entitlement to a priority.
35
36 (b) Boards shall ensure that state qualified veterans receive priority over all other
37 equally qualified individuals in the receipt of training or assistance under
38 employment assistance or job training services funded in whole or in part by state
39 funds in accordance with Texas Government Code §657.002(a).
40
41 (c) Boards shall ensure that federal qualified veterans and qualified spouses, as defined
42 in §801.23(4), continue to receive priority over all other equally qualified individuals
43 in the receipt of services funded in whole or in part by the U.S. Department of Labor,
44 in accordance with 38 U.S.C. §4215.
45

- 1 (d) Boards shall ensure that eligible foster youth receive priority over all other equally
2 qualified individuals--except federal qualified veterans, qualified spouses, and state
3 qualified veterans as defined in this chapter--in the receipt of federal and state funded
4 services.
5

6 **Subchapter C. The Integrity of the Texas Workforce System**
7

8 **§801.51. Purpose and General Provisions.**
9

- 10 (a) The purpose of the rules contained in this subchapter is to implement Texas
11 Government Code, §2308.264 and §2308.267, including provisions relating to
12 directly delivering services, Board contracting guidelines, and other conflict of
13 interest provisions.
14
- 15 (b) It is the intent of the Commission that these rules strengthen the confidence of the
16 public in the Texas workforce system.
17
- 18 (c) A Board may set local policies that are more restrictive than those set forth in this
19 subchapter.
20
- 21 (d) A Board shall develop the policies and procedures required by this subchapter.
22
- 23 (e) A Board member with an existing contract for workforce services shall comply with
24 this subchapter no later than the earliest of the following:
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- 26 (1) the expiration of the contract;
 - 27
 - 28 (2) the contract renewal date; or
 - 29
 - 30 (3) the expiration of the Board member's term or the Board member's resignation.
31
- 32 (f) Pursuant to Texas Government Code, Chapter 551 (Open Meetings Act), a Board
33 shall:
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- 35 (1) post appropriate notice;
 - 36
 - 37 (2) ensure that all public business or public policy over which the Board has
38 supervision or control is discussed, considered, or acted upon during a properly
39 posted and convened open meeting; and
40
 - 41 (3) prepare and retain minutes or tape recordings of each open meeting of the
42 Board. The minutes shall:
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 - 44 (A) state the subject of each deliberation; and
 - 45
 - 46 (B) indicate each vote, order, decision, or other action taken.

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