

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

3
4 **ADOPTED RULES TO BE PUBLISHED IN THE *TEXAS REGISTER*. THIS**
5 **DOCUMENT WILL HAVE NO SUBSTANTIVE CHANGES BUT IS SUBJECT TO**
6 **FORMATTING CHANGES AS REQUIRED BY THE OFFICE OF THE SECRETARY**
7 **OF STATE.**

8
9 **ON JUNE 28, 2022**, THE TEXAS WORKFORCE COMMISSION ADOPTED THE RULES
10 BELOW WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS REGISTER*.

11
12 Publication Date of the Adoption in the *Texas Register*: **July 15, 2022**
13 The Rules are Effective: **July 18, 2022**

14
15 Texas Workforce Commission (TWC) adopts amendments to the following sections of Chapter
16 849, relating to Employment and Training Services for Dislocated Workers Eligible for Trade
17 Benefits:

- 18 Subchapter A. General Provisions, §§849.1 - 849.3
- 19 Subchapter B. Trade Services Responsibilities, §849.11 and §849.12
- 20 Subchapter C. Trade Services, §§849.21 - 849.23
- 21 Subchapter D. Support Services, §849.41
- 22 Subchapter E. Complaints and Appeals, §849.51 and §849.52

23
24
25 The amendments to §§849.1 - 849.3, 849.11, 849.12, 849.21 - 849.23, 849.41, 849.51, and
26 849.52 are adopted *without* changes, to the proposed text as published in the May 6, 2022, issue
27 of the *Texas Register* (47 TexReg 2705), and the adopted rule text will not be published.

28
29 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**

30 The purpose for the amendments is to align Chapter 849 with Trade Adjustment Assistance for
31 Workers Final Rule (TAA Final Rule).

32
33 Trade Adjustment Assistance (TAA) is a federal entitlement program established by the Trade
34 Act of 1974 to assist workers adversely impacted by foreign trade or the shifting of jobs from the
35 United States to other countries. Workers who have lost or may lose their jobs because of their
36 company's decline in production or sales due to increased imports or the outsourcing of jobs to
37 foreign countries are potentially eligible for TAA services and benefits.

38
39 On August 21, 2020, the United States Department of Labor Employment and Training
40 Administration (ETA) released the TAA Final Rule, which is codified under 20 Code of Federal
41 Regulations (CFR) Part 618. The final rule modernizes the TAA Program, consolidates all
42 applicable program regulations into a single section of the CFR, removes outdated references to
43 the Workforce Investment Act (WIA), and continues to align the TAA Program with the
44 Workforce Innovation and Opportunity Act (WIOA). The TAA Final Rule became effective on
45 September 21, 2020.

1 Texas Government Code, §2001.039, requires that every four years each state agency review and
2 consider for re-adoption, revision, or repeal each rule adopted by that agency. TWC reviewed the
3 rules in Chapter 849 and determined that the rules are needed, reflect current legal and policy
4 considerations, and reflect current TWC procedures. The reasons for initially adopting the rules
5 continue to exist and any changes to the rules are described in Part II of this preamble.
6

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

8 (Note: Minor editorial changes are made that do not change the meaning of the rules and,
9 therefore, are not discussed in the Explanation of Individual Provisions.)
10

11 **SUBCHAPTER A. GENERAL PROVISIONS**

12 TWC adopts the following amendments to Subchapter A:
13

14 **§849.1. Purpose**

15 Section 849.1(a)(2) is amended to update the reference from WIA to WIOA.
16

17 Section 849.1(a)(3) is amended to clarify that Rapid Response services are provided following an
18 announcement or notification of a permanent closure or mass layoff or the filing of a TAA
19 petition.
20

21 Section 849.1(b)(1) and (2) are amended to state that suitable employment is required for trade-
22 affected workers.
23

24 **§849.2. Definitions**

25 New §849.2(1), the definition for "Adversely affected employment," is added to align with the
26 language of the TAA Final Rule.
27

28 New §849.2(2), the definition for "Adversely affected incumbent worker," is added to align with the
29 language of the TAA Final Rule.
30

31 New §849.2(3), the definition for "Adversely affected worker," is added to align with the
32 language of the TAA Final Rule. The subsequent paragraphs are renumbered accordingly.
33

34 Current §849.2(5), the definition for "Employer-Based Training," is removed to align with the TAA Final
35 Rule. The TAA Final Rule uses the term "Work-based training," and that term is defined in new
36 §849.2(21).
37

38 New §849.2(8) is added to define "Individual Employment Plan (IEP)." The TAA Final Rule uses the term
39 "Individual Employment Plan (IEP)" instead of "Reemployment and Training Plan (REP)," and, therefore,
40 the definition for REP in §849.2(9) is removed.
41

42 Renumbered §849.2(9), the definition for "Job search allowance," is amended to remove the reference to a
43 "cash" benefit and replace the term "trade-certified workers" with "trade-affected workers."
44

45 New §849.2(10) is added to define "Labor market information."
46

1 Renumbered §849.2(11) is amended to update the reference from WIA to WIOA.

2
3 Renumbered §849.2(12), the definition for "Relocation allowance" is amended to replace the term "trade-
4 certified worker" with "trade-affected worker" and expand the definition to include that relocation of the
5 worker's household and family can be supported if the wage is in at least the 75th percentile of national
6 wages.

7
8 Renumbered §849.2(14) is amended to modify the definition of "Trade Act" to include reversions of the
9 Trade Adjustment Assistance Reauthorization Act of 2015, referred to as Reversion 2021.

10
11 New §849.2(15), formerly §849.2(12), is amended to update the definition of "Trade-affected
12 worker" to include adversely affected workers and adversely affected incumbent workers. The
13 TAA Final Rule uses the term "Trade-affected worker" in place of "Trade-Certified Worker,"
14 and, therefore, the definition of Trade-Certified Worker in §849.2(14) is removed.

15
16 Renumbered §849.2(16) is amended to clarify that "Trade benefits" are benefits available to any member of
17 a worker group certified by the United States Department of Labor as trade-affected.

18
19 Renumbered §849.2(17) is amended to clarify that "Trade Readjustment Allowances" are a
20 weekly allowance payable to adversely affected workers who meet the requirements outlined in
21 the TAA Final Rule.

22
23 Renumbered §849.2(20) is amended to update the reference from WIA to 29 United States Code
24 Chapter 23.

25
26 New §849.2(21) is added to provide the definition for "Work-based training."

27
28 **§849.3. Trade Service Strategy**

29 Section 849.3(a)(2) is amended to replace "demand occupations" with "in-demand occupations
30 and the earning potential of those occupations" for the analysis of the local labor market.

31
32 New §849.3(a)(3) is added to include "determine skill requirements of local in-demand
33 occupations" to the analysis of the local labor market. The subsequent paragraphs are
34 renumbered accordingly.

35
36 Renumbered §849.3(a)(4) is amended to change "employment opportunities" to "job vacancy
37 listings" and the skills necessary to obtain the jobs identified in the listings to align with the TAA
38 Final Rule.

39
40 Section 849.3(a)(4) is deleted to remove "identify employer-based training opportunities" from
41 the analysis of the local labor market.

42
43 Section 849.3(b) is amended to remove "coordinate various service delivery approaches."

44
45 Section 849.3(b)(2) is amended to remove WIA core and intensive services to support rapid
46 reattachment to the workforce and incorporates the WIOA term of career services.

1
2 Section 849.3(b)(3) is deleted to remove the language that Local Workforce Development
3 Boards (Boards) shall set local policy to "refer to prevocational and vocational training in
4 demand and targeted occupations, or occupations in which there is a reasonable expectation of
5 employment." The subsequent paragraph is renumbered.

6
7 Renumbered §849.3(b)(3) replaces the term "job" with "employment."

8
9 Section 849.3(c) is deleted and the content relating to coenrollment is moved to new §849.21(c).
10 The subsequent subsection is relettered.

11
12 Relettered §849.3(c)(4) is amended to add group career counseling and clarify that the
13 counseling described in §849.3 is available during the period the trade-affected worker receives
14 Trade Readjustment Assistance.

15
16 Relettered §849.3(c)(7) is amended to change the reference from REP to IEP and relettered
17 §849.3(c)(10) is amended to change the reference from WIA to WIOA.

18
19 Relettered §849.3(c)(11) is amended to include employment services.

20
21 Relettered §849.3(c)(12) is amended to clarify that follow-up services are available during
22 training.

23
24 New §849.3(c)(13) adds the provision of employment statistics information, including the
25 provision of accurate information relating to local, regional, and national labor market areas.

26
27 **SUBCHAPTER B. TRADE SERVICES RESPONSIBILITIES**

28 TWC adopts the following amendments to Subchapter B:

29
30 **§849.11. General Board Responsibilities**

31 Section 849.11(c) is amended to change the term "participant" to "trade-affected worker" to align
32 with the TAA Final Rule.

33
34 Section 849.11(c)(4) is amended to change the reference from "REP" to "IEP" and update the
35 reference to the definition from §849.2(9) to §849.2(8).

36
37 **§849.12. Participant Responsibilities**

38 Section 849.12 is amended to change the title from "Participant Responsibilities" to "Trade-
39 Affected Worker Responsibilities" to align with the TAA Final Rule.

40
41 Section 849.12(2) is amended to remove full-time. Under the TAA Final rule, in some instances,
42 multiple part-time jobs are allowable.

43
44 New §849.12(7) is added to include the trade-affected worker's responsibility to review labor
45 market information and expected wage of the new occupation as required by the TAA Final
46 Rule. The subsequent paragraphs are renumbered accordingly.

1
2 Renumbered §849.12(9) is amended to change "trade funded" to "trade-approved."
3

4 Renumbered §849.12(10) is amended to change "academic status" to "academic standing," "trade
5 funded" to "trade-approved," and "REP" to "IEP."
6

7 **SUBCHAPTER C. TRADE SERVICES**

8 TWC adopts the following amendments to Subchapter C:
9

10 **§849.21. Activities Prior to Certification of a Trade Petition**

11 Section 849.21(a) is amended to remove the term long-term employment. References to long-
12 term employment were eliminated in the TAA Final Rule because the concept of long-term
13 employment is included in the definition of suitable employment.
14

15 Section 849.21(b) is amended to change layoff assistance to Rapid Response assistance to reflect
16 language in the TAA Final Rule and change the reference from WIA to WIOA.
17

18 Section 849.21(b)(1) is amended to add the conditions under which Rapid Response is provided.
19

20 Section 849.21(b)(2) is amended to remove "on-site."
21

22 New §849.21(b)(3) is added to include the requirements for scheduling Rapid Response services.
23 The subsequent paragraphs are renumbered accordingly.
24

25 Renumbered §849.21(b)(4) is amended to change "companies" to "employers."
26

27 Renumbered §849.21(b)(5) is amended to clarify initial assessment requirements to align the
28 TAA Program with WIOA.
29

30 New §849.21(b)(6) is added to include helping affected workers register in the state's labor
31 exchange system.
32

33 Current §849.21(b)(5) and (6) are removed and the removed language is clarified in new
34 §849.21(b)(3).
35

36 New §849.21(c)(1) and (2) is added to include the requirement of coenrollment of Trade-affected
37 workers in the WIOA Dislocated Worker program as required in the TAA Final Rule. New
38 §849.21(c)(2) describes the method to document instances when a trade-affected worker declines
39 coenrollment.
40

41 **§849.22. Postcertification of a Trade Petition**

42 Section 849.22(a)(1) is amended to replace language related to WIA with language related to
43 WIOA.
44

45 Section 849.22(a)(2) is amended to change the reference from WIA to WIOA.
46

1 Section 849.22(b) is amended to replace the WIA term "intensive" with WIOA term "career
2 services."

3
4 Section 849.22(b) is amended to change the reference from REP to IEP.

5
6 Section 849.22(b)(1) - (9) is deleted to remove the REP requirements under WIA that are not
7 required under WIOA.

8
9 New §849.22(b)(1) - (5) is added to clarify the requirements of an IEP as described in the TAA
10 Final Rule.

11
12 Section 849.22(d) is amended to change "Agency's TAA unit" to "Agency's TAA State Office."

13
14 **§849.23. Training Referrals**

15
16 Section 849.23 is amended to remove "Referrals" from the section title to align with the language
17 in the TAA Final Rule.

18
19 Section 849.23(a)(1) is amended to clarify that TAA training requirements must be met under the
20 TAA Final Rule.

21
22 Section 849.23(a)(3) is amended to remove "occupationally specific" and add "be specific to the
23 worker's occupational goal" to align with language in the TAA Final Rule.

24
25 Section 849.23(a)(4) is amended to change the term "participant" to "trade-affected worker" to
26 align with the TAA Final Rule.

27
28 Section 849.23(a)(5) is amended to clarify that the worker is capable of completing and securing
29 a degree or certificate within the maximum time frame.

30
31 Section 849.23(b) is amended to change "intensive and training services" to "career and training
32 services" to align with WIOA language.

33
34 Section 849.23(b)(1) is amended to replace "employer-based training" with "work-based
35 training" and new §849.23(b)(2) and (3) are added to include occupational and labor market
36 information. The subsequent paragraphs are renumbered accordingly.

37
38 Renumbered §849.23(b)(4) is amended to replace "contextual vocational skills" with
39 "contextualized occupational training" to align with the TAA Final Rule.

40
41 **SUBCHAPTER D. SUPPORT SERVICES**

42 TWC adopts the following amendments to Subchapter D:

43
44 **§849.41. Support Services for Dislocated Workers Eligible for Trade Benefits**

1 Section 849.41(a) is amended to update references from WIA to WIOA and remove "co-enrolled
2 in WIA." The requirement for coenrollment in the WIOA Dislocated Worker is addressed in new
3 §849.21(c)(1).

4
5 Section 849.41(b)(2) is amended to clarify transportation services are "local" and remove "that
6 may be provided for participating workers" for clarity.

7
8 New §849.41(b)(3) and (4) are added to include "housing assistance, if necessary" and
9 "dependent care" as support services under the TAA Program.

10
11 Section 849.41(b)(3) is removed to align with the definition of support services in the TAA Final
12 Rule.

13
14 **SUBCHAPTER E. COMPLAINTS AND APPEALS**

15 TWC adopts the following amendments to Subchapter E:

16
17 **§849.51. Appeals of Commission Determinations on Trade Act Activities**

18 Section 849.51(c) is amended to change the term "participant" to "trade-affected worker" to align
19 with the TAA Final Rule.

20
21 New §849.51(d) is added to include the requirement to inform trade-affected workers about the
22 circumstances that lead to overpayments and clarify that the Agency's TAA State Office makes
23 final determination for overpayment requests.

24
25 **§849.52. Discrimination Complaints**

26 Section 849.52(a) is amended to change the term "participant" to "trade-affected worker" to align
27 with the TAA Final Rule.

28
29 TWC hereby certifies that the adoption has been reviewed by legal counsel and found to be
30 within TWC's legal authority to adopt.

31
32 **PART III. PUBLIC COMMENTS**

33 The public comment period closed on June 6, 2022. No comments were received.

34
35 **PART IV. STATUTORY AUTHORITY**

36 The rules are adopted under Texas Labor Code, §301.0015 and §302.002(d), which provide
37 TWC with the authority to adopt, amend, or repeal such rules as it deems necessary for the
38 effective administration of TWC services and activities.

39
40 The adopted rules implement necessary changes made to align with the updated TAA Final Rule
41 and update references from WIA provisions to WIOA provisions.

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 of this chapter is 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 Workforce Solutions Offices consistent with Chapter 801 of this
13 title (relating to Local Workforce Development Boards);
14
15 (2) coordination and integration of services to dislocated workers eligible for
16 Trade benefits through the Workforce Solutions Offices consistent with state
17 law, the Trade Act, and the Workforce Innovation and Opportunity Act. For
18 the purposes of this chapter, references to the "Trade Act" include references to
19 the federal statutes relating to the Trade Act of 1974, as amended; and
20
21 (3) provision of Rapid Response services, as set forth in §849.21(b) of this
22 chapter, following an announcement or notification of a permanent closure or
23 mass layoff or the filing of a Trade Adjustment Assistance petition with the
24 United States Department of Labor.
- 25
26 (b) The purposes of services to dislocated workers eligible for Trade benefits under the
27 Trade Act are to:
- 28
29 (1) ensure that dislocated workers eligible for Trade benefits obtain suitable
30 employment whenever possible and to return to employment as quickly as
31 possible;
32
33 (2) fund such services to develop or enhance the vocational skills necessary to
34 meet employers' needs when suitable employment cannot be obtained; and
35
36 (3) provide other such services, as may be funded under state or federal programs,
37 for post-employment activities, as needed.

38
39 **§849.2. Definitions.**

40
41 The following words and terms, when used in this chapter, shall have the following
42 meanings unless the context clearly indicates otherwise.

- 43
44 (1) Adversely affected employment--Employment in which workers are eligible to
45 apply for Trade Adjustment Assistance (TAA).
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- (2) Adversely affected incumbent worker--An individual who:
 - (A) is a member of a worker group certified as eligible to apply for the TAA Program;
 - (B) has not been totally or partially separated from adversely affected employment; and
 - (C) is threatened with total or partial separation, as determined by the United States Department of Labor (DOL).
 - (3) Adversely affected worker--An individual, including an employer, who because of lack of work in adversely affected employment, has been totally or partially separated from such employment.
 - (4) Alternative Trade Adjustment Assistance for Older Workers/Reemployment Trade Adjustment Assistance--Benefits available to workers in an eligible worker group who are at least 50 years of age and who obtain different, full-time employment following separation from adversely affected employment, at wages less than those earned in the adversely affected employment. These workers may receive up to half of the difference between the worker's old wage and the new wage, as set forth in the Trade Act.
 - (5) Benchmarking--A process conducted no less often than once every 60 days and designed to monitor and ensure the worker progresses toward completing the approved training based on two criteria:
 - (A) Maintaining satisfactory academic standing; and
 - (B) Staying on schedule to complete training within the time frame identified in the approved training plan.
 - (6) Bona fide application for training--Any document developed by a Board or provided by the Agency that meets the requirements of 20 Code of Federal Regulations (CFR) §617.3(h)(1)(i), and is signed and dated by the participant, which includes the participant's name, Trade petition number, and specific occupational training.
 - (7) Contextualized learning--Learning, which includes English and basic skills, presented in the context of the selected vocational skills training.
 - (8) Individual employment plan (IEP)--A revisable document containing an ongoing strategy, jointly developed by the trade-affected worker and the case worker, identifying the worker's employment goals and appropriate achievement objectives.

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- (9) Job search allowance--Benefit provided to trade-affected workers to support out-of-area job search when employment is not available within the Commission-established local commuting area.
 - (10) Labor market information--Information used to measure expected job market conditions that include, but are not limited to, job order activity, short-term projections data, job vacancy surveys, business visitation programs, and local and regional strategic plans.
 - (11) Rapid Response services--As defined by Workforce Innovation and Opportunity Act §3(51); 20 CFR Part 652, Subpart C; 20 CFR §§665.300, 665.310, and 665.320; and the Trade Act.
 - (12) Relocation allowance--A benefit provided to a trade-affected worker to support relocation of the worker's household and family when suitable employment or employment that pays a wage of at least the 75th percentile of national wages is not available to the worker within the Commission-established local commuting area and relocation is necessary to secure suitable employment.
 - (13) Suitable employment--Any employment that meets the requirements of 19 United States Code (USC) §2296, as referenced in 20 CFR Part 618, Subpart F, Reemployment Services, and in particular §618.610(a)(1), which is employment that results in work of an equal or higher skill level as compared to the worker's past adversely affected employment, with wages of not less than 80 percent of the worker's average weekly wage.
 - (14) Trade Act--The federal statutes relating to Trade Adjustment Assistance and Trade Readjustment Allowances. For purposes of this chapter, references to the "Trade Act" shall include references to the federal statutes relating to the Trade Act of 1974, as amended, which include 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; the sunset provisions of the Trade Adjustment Assistance Extension Act of 2011, referred to as Reversion 2014; and reversion provisions of the Trade Adjustment Assistance Reauthorization Act of 2015, referred to as Reversion 2021.
 - (15) Traded-affected worker--A category including both adversely affected workers and adversely affected incumbent workers.
 - (16) Trade benefits--Benefits available to any member of a worker group certified by DOL as trade-affected.

- 1 (17) Trade Readjustment Allowances (TRA)--A weekly allowance payable to an
2 adversely affected worker who meets the requirements of 20 CFR Part 618,
3 Subpart G.
- 4
- 5 (18) Unemployment Insurance (UI)--UI program as set forth in Texas Labor Code,
6 §201.001 *et seq.*
- 7
- 8 (19) Waiver of the training requirement--A document developed by the Agency,
9 which may be adapted by a Board, that meets the requirements of the Trade
10 Act, and is approved by state merit staff, waiving the requirement to be
11 enrolled in Trade-funded training in order to receive TRA.
- 12
- 13 (20) WARN--The Worker Adjustment and Retraining Notification Act, as set forth
14 in 29 USC Chapter 23.
- 15
- 16 (21) Work-based training--Training services specifically designed to meet an
17 employer's staffing and skill needs, as set forth by 20 CFR §618.635, including
18 on-the-job and customized training, and apprenticeship programs.
- 19

20 **§849.3. Trade Service Strategy.**

- 21
- 22 (a) Boards shall ensure that their strategic planning process includes an analysis of the
23 local labor market to:
 - 24
 - 25 (1) determine employer needs;
 - 26
 - 27 (2) determine emerging, targeted, and in-demand occupations and the earning
28 potential of those occupations;
 - 29
 - 30 (3) determine skill requirements of local in-demand occupations; and
 - 31
 - 32 (4) identify job vacancy listings and the skills necessary to obtain the jobs
33 identified in the listings, which include those with a potential for career
34 advancement.
 - 35
- 36 (b) Boards shall set local policies for a Trade service strategy to:
 - 37
 - 38 (1) assist dislocated workers eligible for Trade benefits in obtaining suitable
39 employment as an alternative to referral to training;
 - 40
 - 41 (2) promote the use of Workforce Innovation and Opportunity Act (WIOA) career
42 services to support successful reemployment; and
 - 43
 - 44 (3) assist in employment retention and career advancement.
 - 45
- 46 (c) Boards shall ensure that dislocated workers eligible for Trade benefits receive the

1 following services:

- 2
- 3 (1) Explanation of benefits and services available under the Trade Act, to include
- 4 applicable deadlines;
- 5
- 6 (2) Assessment of education, skills, and service needs;
- 7
- 8 (3) Information on training available locally and regionally, including information
- 9 on how to apply for financial aid supported under the Higher Education Act of
- 10 1965;
- 11
- 12 (4) Individual and group career counseling, including job search and placement
- 13 counseling during the period the trade-affected worker is receiving TRA or
- 14 training;
- 15
- 16 (5) Short-term prevocational services;
- 17
- 18 (6) Issuance of a waiver of the training requirement where suitable work is
- 19 unavailable, training is determined not to be feasible or appropriate, and the
- 20 worker meets applicable eligibility criteria;
- 21
- 22 (7) Development of an IEP;
- 23
- 24 (8) Referral to training services where suitable employment is unavailable;
- 25
- 26 (9) Assistance in filing requests for job search and/or relocation allowances;
- 27
- 28 (10) Support services available under the WIOA Title I dislocated worker program;
- 29
- 30 (11) Employment and case management services;
- 31
- 32 (12) Follow-up services during and upon completion of training; and
- 33
- 34 (13) Provision of employment statistics information, including the provision of
- 35 accurate information relating to local, regional, and national labor market
- 36 areas.
- 37

38 **SUBCHAPTER B. TRADE SERVICES RESPONSIBILITIES**

39 **§849.11. General Board Responsibilities.**

- 40
- 41
- 42 (a) Board Planning. A Board shall amend and modify its integrated workforce training
- 43 and services plan to incorporate and coordinate the design, policy development, and
- 44 management of the delivery of Trade activities and support services with the delivery
- 45 of other workforce employment, training, and educational services identified in
- 46 Texas Government Code, §2308.251 *et seq.*, as well as other training and services

1 included in the One-Stop Service Delivery Network as set forth in Chapter 801 of
2 this title.

3
4 (b) Reporting. Boards shall ensure that documentation is maintained as required by the
5 Agency, including documentation required in the Agency's automated reporting
6 system.

7
8 (c) Monitoring. A Board shall ensure that the monitoring of program requirements and
9 trade-affected worker activities is part of the monitoring required under Chapter 802,
10 Subchapter D of this title (relating to Agency Monitoring Activities) and, in
11 particular, that the monitoring is ongoing and frequent, as determined appropriate by
12 the Board, and consists of the following:

- 13
14 (1) timely and accurate reporting of data required for the provision of services to
15 the trade-affected worker;
- 16
17 (2) tracking and reporting of participation;
- 18
19 (3) tracking and reporting of support services;
- 20
21 (4) ensuring progress toward achieving the goals and objectives through
22 benchmarking, as established in the worker's IEP and defined in §849.2(8) of
23 this chapter; and
- 24
25 (5) monitoring other requirements, as prescribed by the Commission.

26
27 **§849.12. Trade-Affected Worker Responsibilities.**

28
29 As required by the Trade Act, dislocated workers eligible for Trade benefits shall:

- 30
31 (1) apply for UI and TRA benefits in the manner, and pursuant to the time limits,
32 prescribed by federal and state statutes and regulations;
- 33
34 (2) contact the local Workforce Solutions Office and register for work by enrolling
35 in the Agency's automated job matching system;
- 36
37 (3) attend Rapid Response and Trade orientation activities;
- 38
39 (4) report to the employer to whom they are referred for suitable employment;
- 40
41 (5) accept a job offer and/or retain employment, if it meets the criteria for suitable
42 employment;
- 43
44 (6) attend scheduled appointments with the case manager, if no suitable
45 employment is available;
- 46

- 1 (7) review labor market information and expected wage of the new occupation;
- 2
- 3 (8) fully participate in Trade-approved training as defined by the training provider
- 4 and/or the Agency;
- 5
- 6 (9) notify the case manager prior to modifying Trade-approved training by adding
- 7 or dropping coursework;
- 8
- 9 (10) maintain satisfactory academic standing and progressing in Trade-approved
- 10 training as stipulated in the IEP; and
- 11
- 12 (11) report to employers, as referred by case managers, upon completing training.
- 13

14 **SUBCHAPTER C. TRADE SERVICES**

15

16 **§849.21. Activities Prior to Certification of a Trade Petition.**

- 17
- 18 (a) Boards shall develop intervention strategies for providing Workforce Solutions
- 19 Office services, which ensure rapid and suitable employment for trade-affected
- 20 workers and dislocated workers eligible for Trade benefits.
- 21
- 22 (b) Boards shall ensure that Rapid Response assistance is provided consistent with
- 23 Workforce Innovation and Opportunity Act (WIOA) Title I Rapid Response
- 24 services, including the following:
- 25
- 26 (1) contacting the employer immediately upon the filing of a Trade petition,
- 27 receipt of a WARN letter, the announcement of a layoff involving 50 or more
- 28 workers, other notification of pending layoff, or a mass job dislocation that
- 29 results from a natural disaster;
- 30
- 31 (2) scheduling a meeting with the employer and workers to ensure notification of
- 32 Rapid Response services, including availability of UI mass claims;
- 33
- 34 (3) scheduling services for workers, including:
- 35
- 36 (A) orientation to Trade Act benefits, which includes the following:
- 37
- 38 (i) TRA; and
- 39
- 40 (ii) Trade Act-funded employment and training activities; and
- 41
- 42 (B) orientation to labor market information, including wage data and the
- 43 availability of demand and targeted occupations as defined by the Board;
- 44
- 45 (4) assisting employers, workers, and labor unions with filing Trade petitions with
- 46 the United States Department of Labor;

- 1
- 2 (5) providing initial assessment of the trade-affected worker's skill levels,
- 3 (including literacy, numeracy, and English language proficiency), abilities
- 4 (including skill gaps), and need for support services;
- 5
- 6 (6) helping affected workers register in the state's labor exchange system; and
- 7
- 8 (7) coordinating with the appropriate UI field specialist.
- 9

10 (c) Boards shall ensure that:

- 11
- 12 (1) Trade-affected workers are coenrolled in the WIOA Dislocated Worker program
- 13 if they are eligible; and
- 14
- 15 (2) Workforce Solutions Office staff completes the Trade Adjustment Assistance
- 16 Coenrollment Declination Form if a trade-affected worker declines
- 17 coenrollment.
- 18

19 **§849.22. Postcertification of a Trade Petition.**

20

21 (a) Boards shall ensure that:

- 22
- 23 (1) trade-affected workers are referred to Workforce Innovation and Opportunity
- 24 Act (WIOA) career and training services, consistent with WIOA eligibility
- 25 criteria, the needs of the worker, and a Board's policies and procedures; and
- 26
- 27 (2) the coenrollment of Trade-certified workers in WIOA Title I dislocated worker
- 28 services shall not interfere with the timely provision of TAA services.
- 29

30 (b) Boards shall ensure that prior to referring a trade-affected worker to WIOA career or

31 training services, each of the following criteria are met and documented in the IEP:

- 32
- 33 (1) An employment goal, including the targeted occupation and industry;
- 34
- 35 (2) The proposed training program, if applicable;
- 36
- 37 (3) Services that the worker will need to obtain suitable employment, including
- 38 career services, support services provided through partner programs, and post-
- 39 training case management services;
- 40
- 41 (4) Supplemental assistance required for participation in training and the basis for
- 42 cost calculation; and
- 43
- 44 (5) The worker's responsibilities under the plan.
- 45

46 (c) Boards shall ensure that the approval of Trade benefits and services is accomplished

1 by state merit staff, including approval of training, waiver issuance, and the
2 associated review and approval of waiver continuation.

- 3
4 (d) Boards shall ensure that any denial of Trade benefits or services is accomplished by
5 forwarding a recommendation to the Agency's TAA State Office unit for issuance of
6 a formal appealable decision.
7

8 **§849.23. Training.**
9

- 10 (a) Boards shall ensure that Trade-funded training is approved as set forth in this
11 subsection. Training must:

- 12
13 (1) meet the criteria established in 20 Code of Federal Regulations §618.610;
14
15 (2) use training providers that are licensed under applicable state law or exempt
16 from such requirements, or possessing accreditation recognized by the United
17 States Department of Education;
18
19 (3) be specific to the worker's occupational goals;
20
21 (4) meet the needs of employers and ensure the trade-affected worker has a
22 reasonable expectation of employment; and
23
24 (5) be capable of being completed and a degree or credential secured within the
25 maximum time frame.
26

- 27 (b) Boards shall ensure that the following types of career and training services are
28 considered:

- 29
30 (1) work-based training, including on-the-job training, customized training, and
31 apprenticeship programs;
32
33 (2) occupational training;
34
35 (3) labor market information;
36
37 (4) contextualized occupational training, particularly for Limited English
38 Proficiency customers; and
39
40 (5) remedial training, including literacy, particularly English as a Second
41 Language, Adult Education and Literacy, or high school equivalency
42 certificate training.
43

44 **SUBCHAPTER D. SUPPORT SERVICES**
45

46 **§849.41. Support Services for Dislocated Workers Eligible for Trade Benefits.**

- 1
2 (a) Boards shall ensure that support services available under Workforce Innovation and
3 Opportunity Act Title I dislocated worker services are made available to dislocated
4 workers eligible for Trade benefits under existing Board policies and procedures.
5
6 (b) Support services may include payment or reimbursement from sources other than
7 Trade Act funds for:
8
9 (1) child care services that are governed by rules contained in Chapter 809 of this
10 title;
11
12 (2) local transportation services;
13
14 (3) housing assistance, if necessary; and
15
16 (4) dependent care.
17

18 **SUBCHAPTER E. COMPLAINTS AND APPEALS**

19
20 **§849.51. Appeals of Commission Determinations on Trade Act Activities.**

- 21
22 (a) A Commission determination or decision may be appealed by the party who is
23 adversely affected by the decision. The decision shall include the information
24 necessary to appeal the decision. Decisions that may be appealed include
25 determinations pertaining to eligibility for Trade Act activities, services, and
26 monetary allowances regarding a trade-affected worker's application for:
27
28 (1) waivers of training;
29
30 (2) job search allowances;
31
32 (3) job relocation allowances;
33
34 (4) Trade Readjustment Allowances;
35
36 (5) training; and
37
38 (6) any other appealable action allowable under the Trade Act.
39
40 (b) Appeals under the Trade Act shall be in accordance with Texas Labor Code, Chapter
41 212, and Chapter 815 of this title, and as provided with the determination or
42 decision.
43
44 (c) Boards shall ensure that trade-affected workers are informed of their rights to appeal
45 a determination related to certain non-Trade-funded activities and the procedures for
46 an appeal of the determination, and for requesting a hearing from the Commission as
47 specified in the applicable statutes and regulations relating to the services, including

1 but not limited to Chapter 823 of this title.
2

- 3 (d) Boards shall ensure that trade-affected workers are informed that if they fail without
4 good cause to complete training, a job search, or a relocation, then a portion of the
5 payment for the respective benefit may result in an overpayment. Boards must
6 submit overpayment requests to the Agency's TAA State Office for a final
7 determination.
8

9 **§849.52. Discrimination Complaints.**
10

- 11 (a) A trade-affected worker alleging discrimination on the basis of age, race, color,
12 national origin, or physical or mental disability has a right to file a written complaint
13 of alleged discriminatory acts within 180 calendar days from the date of the alleged
14 discriminatory acts. Complaints shall be submitted to the Texas Workforce
15 Commission Equal Opportunity Department, 101 East 15th Street, Room 220,
16 Austin, Texas 78778-0001.
17
- 18 (b) Boards shall ensure that the Board or the Board's service providers advise
19 individuals who express an interest in filing a discrimination complaint of their right
20 to file a complaint and the complaint procedures.