

1 **CHAPTER 805. ADULT EDUCATION AND LITERACY**

2  
3 **PROPOSED RULES WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS***  
4 ***REGISTER*. THIS DOCUMENT WILL NOT HAVE ANY SUBSTANTIVE CHANGES**  
5 **BUT IS SUBJECT TO FORMATTING CHANGES AS REQUIRED BY THE *TEXAS***  
6 ***REGISTER*.**

7  
8 **ON NOVEMBER 12, 2013, THE TEXAS WORKFORCE COMMISSION PROPOSED THE**  
9 **BELOW RULES WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS REGISTER*.**

10  
11 Estimated Publication Date of the Proposal in the *Texas Register*: **November 29, 2013**

12 Estimated End of Comment Period: **December 30, 2013**

13  
14 The Texas Workforce Commission (Commission) proposes new Chapter 805, relating to Adult  
15 Education and Literacy, comprising the following subchapters:

16  
17 Subchapter A. General Provisions

18 Subchapter B. Staff Qualifications

19 Subchapter C. Service Delivery Structure and Alignment

20 Subchapter D. Other Provisions

21  
22 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**

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

24 **PART III. IMPACT STATEMENTS**

25 **PART IV. COORDINATION ACTIVITIES**

26  
27  
28 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**

29 Senate Bill (SB) 307, enacted by the 83rd Texas Legislature, Regular Session (2013), added  
30 Texas Labor Code, Chapter 315, which transferred adult education and literacy (AEL) programs  
31 from the Texas Education Agency (TEA) to the Commission no later than January 1, 2014.

32  
33 SB 307 mandates that the Commission:

- 34 --develop, administer, and support a comprehensive statewide adult education program and  
35 coordinate related federal and state programs for the education and training of adults;  
36 --develop the mechanism and guidelines for the coordination of comprehensive adult education  
37 and related skills training services for adults with other entities, including public agencies and  
38 private organizations, in planning, developing, and implementing related programs;  
39 --administer adult education funding;  
40 --prescribe rules and standards for teacher certification and accreditation; and  
41 --develop a standardized assessment mechanism, and monitor and evaluate educational and  
42 employment outcomes of students who participate in AEL programs.

43  
44 In addition, SB 307 mandates that the Agency use a competitive procurement process to award  
45 contracts to service providers of local education programs. To complete a competitive

1 procurement and have contracts in place by July 2014, a January 2014 target date has been set  
2 for the adoption of new Chapter 805, regarding AEL.

3  
4 Further, to fully incorporate AEL programs into the Agency's administrative oversight  
5 framework, amendments are necessary in Chapter 800, regarding General Administration, and  
6 Chapter 802, regarding Integrity of the Texas Workforce System. To ensure a seamless  
7 transition of rules, the Chapter 800 and Chapter 802 amendments are proposed concurrently with  
8 this rulemaking.

9  
10 The Commission is well positioned to administer the AEL programs due to its existing network  
11 of partnerships and long-standing commitment to promote and support an effective workforce  
12 system that offers employers, individuals, and communities the opportunity to achieve and  
13 sustain economic prosperity. The Commission, in partnership with 28 Local Workforce  
14 Development Boards (Boards) across the state, forms Texas Workforce Solutions, which is  
15 available to employers, workers, job seekers, and youth throughout the state. Texas Workforce  
16 Solutions provides vital workforce development tools that help workers find and keep good jobs,  
17 and help employers hire the skilled workers they need to expand their businesses. Through  
18 Workforce Solutions Offices across the state and in collaboration with workforce partners,  
19 including community colleges, AEL providers, local independent school districts, economic  
20 development groups, and other state agencies, Texas Workforce Solutions provides innovative  
21 services to support employers and workers. Collaboration and coordination across these  
22 agencies and local entities play a critical role in the success of the Texas workforce system.

23  
24 To better understand the major issues currently facing adult education, the Commission held a  
25 series of nine public meetings across the state to hear from stakeholders concerning the transfer  
26 of the AEL programs from TEA to the Commission, and to gather input about what is currently  
27 working well and where there is opportunity for improvement. AEL stakeholder communication  
28 has continued throughout the transition, and the Commission greatly values the thoughts,  
29 recommendations, and suggestions provided by the AEL stakeholder community.

30  
31 The purpose of new Chapter 805 is to set forth the following for AEL programs:

- 32 --General provisions
- 33 --Allowable use of state and federal funds
- 34 --Essential program components
- 35 --Diploma requirements
- 36 --Staff qualifications and training
- 37 --Staff service requirements
- 38 --Procurement and contract provisions
- 39 --Program delivery system
- 40 --Advisory committees
- 41 --Match requirements
- 42 --Tuition and fees
- 43 --Staff development and special projects
- 44 --Evaluation of programs

45  
46 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS**

1  
2 **SUBCHAPTER A. GENERAL PROVISIONS**

3 **The Commission proposes new Subchapter A, General Provisions, as follows:**

4  
5 **§805.1. Purpose**

6 New §805.1(a) states that this chapter may be referred to as the AEL rules.

7  
8 New §805.1(b) sets forth the purpose of the AEL programs, which is to provide adults with  
9 sufficient basic education that enables them to effectively:

10 --acquire the basic educational skills necessary for literate functioning;

11 --participate in job training and retraining programs;

12 --obtain and retain employment; and

13 --continue their education to at least the level of completion of secondary school and preparation  
14 for postsecondary education.

15  
16 In enacting SB 307, the Texas legislature expressed the importance of obtaining and retaining  
17 employment, continued education, and acquiring basic skills needed for literate functioning.

18  
19 The mission of the Commission is to promote and support an effective workforce system that  
20 offers employers, individuals, and communities the opportunity to achieve and sustain economic  
21 prosperity. By providing opportunities for literacy and basic educational development, the AEL  
22 program clearly aligns with this mission by delivering the foundational skills Texas needs for  
23 both economic competitiveness and community development.

24  
25 The Texas workforce system offers a diverse range of services within Texas communities that  
26 support current and future economic prosperity for employers, workers, job seekers, students,  
27 and communities. The Commission has a long-standing commitment to providing employment  
28 services, consistent with Workforce Investment Act, Title I, including job training and retraining  
29 programs, which lead to obtaining and retaining productive employment. Providing employment  
30 services and developing innovative ways to help eligible individuals find employment  
31 opportunities in high-growth, high-wage industries are central to that commitment. The  
32 Commission and its workforce partners provide services that lead to thousands of eligible job  
33 seekers entering employment each year. These services include job search assistance, labor  
34 market and career-planning information, access to training, and unemployment benefits to those  
35 who lose their jobs through no fault of their own.

36  
37 Additionally, the Commission:

38 --provides services to targeted populations within communities to help them find or maintain  
39 employment and become self-sufficient;

40 --oversees federal funds, which subsidize child care for low-income families and enable parents  
41 to work or attend workforce training or education activities; and

42 --supports job readiness and job-specific skills training for targeted populations with the goal of  
43 leading these individuals to self-sustaining employment.

44  
45 Providing Texas' current and future workforce with education, training, and workplace  
46 opportunities is essential to the state's future growth and success, and critical to the

1 Commission's mission. To ensure that Texas' workforce has the skills to meet workforce needs  
2 now and into the future, the Commission:

3 --supports programs that identify educational and career paths for students, including vocational  
4 and technical training, as well as those that require two-year, four-year, and higher education  
5 levels; and  
6

7 --develops and distributes educational materials and online tools to help students of all ages and  
8 at all levels identify career pathways.  
9

10 In past years, the Commission has reinforced that commitment by funding workplace literacy  
11 training projects across Texas, thereby providing eligible individuals with limited English  
12 proficiency or individuals in need of adult education with workplace literacy training integrated  
13 with occupational skills training. These projects have allowed eligible individuals to increase  
14 functional education levels and earn a certificate or other credential, ultimately leading to  
15 employment, career advancement, and increased wages.  
16

### 17 **§805.2. Definitions**

18 New §805.2(1) defines "adult education." Based on an extensive review of TEA rules and  
19 consideration of input from numerous AEL stakeholders, the Commission retains this definition  
20 as contained in TEA rules at 19 Texas Administrative Code (TAC) §89.21(1), without  
21 modification.  
22

23 New §805.2(1)(A) defines "adult basic education." Based on an extensive review of TEA rules  
24 and consideration of input from numerous AEL stakeholders, the Commission retains this  
25 definition as contained in TEA rule §89.21(1)(A), with modifications to clarify that adult basic  
26 education instruction is in reading, writing, "and speaking and comprehending" English.  
27

28 New §805.2(1)(B) defines "adult secondary education." Based on an extensive review of TEA  
29 rules and consideration of input from numerous AEL stakeholders, the Commission retains this  
30 definition as contained in TEA rule §89.21(1)(B), without modification.  
31

32 New §805.2(1)(C) defines "English literacy education." Based on an extensive review of TEA  
33 rules and consideration of input from numerous AEL stakeholders, the Commission retains this  
34 definition as contained in TEA rule §89.21(1)(C), without modification.  
35

36 New §805.2(2) defines "AEL consortium" as a partnership of educational, workforce  
37 development, social service entities, and other public and private organizations that agree to  
38 partner, collaborate, plan, and apply for funding to provide AEL and related support services.  
39 Consortium members shall include an AEL grant recipient, AEL fiscal agent, and AEL lead  
40 organization of a consortium, and AEL service provider(s). Consortium members may serve in  
41 one or more of the functions in accordance with state statutes and Commission rules.  
42

43 A consortium may include a Board, but Board membership is not required. However, in order to  
44 ensure a connection to local workforce needs, an AEL consortium must consider and use local  
45 labor market data and information regarding employer needs in designing and proposing service  
46 delivery strategies.  
47

1 New §805.2(3) defines "AEL fiscal agent" as an entity that is assigned financial management  
2 duties as outlined in an Agency-AEL contract or is assigned this function as a member of an  
3 AEL consortium.

4  
5 New §805.2(4) defines "AEL grant recipient" as an eligible grant recipient within a local  
6 workforce development area (workforce area), as defined in new §800.2(11) of this title, that is  
7 awarded AEL funds by the Agency. The AEL grant recipient also may act as an AEL lead  
8 organization of a consortium, AEL fiscal agent, or AEL service provider as designated in an  
9 agreement with an AEL consortium.

10  
11 New §805.2(5) defines "AEL lead organization of a consortium" as an organization designated  
12 as the AEL consortium manager in a written agreement between AEL consortium members. The  
13 AEL lead organization of a consortium is responsible for planning and leadership responsibilities  
14 as outlined in the written agreement and also may serve as an AEL grant recipient, AEL fiscal  
15 agent, or AEL service provider. If a consortium does not identify the lead organization of a  
16 consortium through a written agreement, the AEL grant recipient will be presumed to have taken  
17 responsibility as the lead organization of the consortium.

18  
19 New §805.2(6) defines "AEL service provider" as an entity that is eligible to provide AEL  
20 services as specified in 20 USC §9202 and Texas Labor Code §315.003.

21  
22 New §805.2(7) defines "contact time." Based on the Commission's extensive review of TEA  
23 rules and consideration of input from numerous AEL stakeholders, this section retains the  
24 provisions of TEA rule §89.21(3), with modifications to replace the reference to TEA rule  
25 "§89.25" with a reference to Commission rule "§805.21."

26  
27 New §805.2(8) defines "eligible grant recipient" as an entity that is eligible to receive AEL  
28 program funding. Eligible grant recipients include:  
29 --(A) a local educational agency;  
30 --(B) a community-based organization of demonstrated effectiveness;  
31 --(C) a volunteer literacy organization of demonstrated effectiveness;  
32 --(D) an institution of higher education;  
33 --(E) a public or private nonprofit agency;  
34 --(F) a library;  
35 --(G) a public housing authority;  
36 --(H) a nonprofit institution that is not described in any of subparagraphs (A) - (G) of this  
37 paragraph and has the ability to provide literacy services to adults and families; and  
38 --(I) a consortium of the agencies, organizations, institutions, libraries, or authorities described in  
39 any of subparagraphs (A) - (H) of this paragraph.

### 40 41 **§805.3. Federal and State AEL Funds**

42 New §805.3(a) provides that federal AEL funds may be used for AEL programs for out-of-  
43 school individuals who have attained 16 years of age and:

- 44 --(1) function at less than a secondary school completion level;  
45 --(2) lack a secondary school credential; or  
46 --(3) are unable to speak, read, or write in English.

1  
2 New §805.3(b) provides that state AEL funds are to be used for AEL programs for out-of-school  
3 individuals who are beyond compulsory school attendance age and:

- 4 --(1) function at less than a secondary school completion level;
- 5 --(2) lack a secondary school credential; or
- 6 --(3) are unable to speak, read, or write in English.

7  
8 New §805.3(c) provides that the proportion of students served who meet the requirements of  
9 subsection (a) of this section, but do not meet the requirements of subsection (b) of this section,  
10 must not exceed the grant recipient's percentage of federal funds to the total allocation.

11  
12 Based on the Commission's extensive review of TEA rules and consideration of input from  
13 numerous AEL stakeholders, new §805(a) - (c) retain the provisions of TEA rule §89.22, without  
14 modification.

15  
16 Although the requirements outlining the allowable use of federal and state funds are retained, the  
17 Commission supports employment and training awareness, readiness, and transition  
18 opportunities for students and understands that often those who seek services with defined career  
19 and higher education goals, who have previous work experience, or who may be functioning at  
20 higher levels and need very targeted remedial strategies are most likely to benefit from service  
21 alignment. It is the Commission's intent to support program designs and operations to deliver  
22 increased secondary education and career and higher education outcomes for students including  
23 individuals who are low income or have minimal literacy skills.

24  
25 New §805.3(d) states that the Commission must establish annual performance benchmarks for  
26 the use of AEL funds in serving specific student populations, including the population of  
27 students receiving other workforce services or coenrolled in postsecondary education or training.

28  
29 The Commission's goal is to incrementally increase the proportion of students who exit  
30 workforce services work ready or are enrolled or coenrolled in college and career training,  
31 including those who are registered for work; receiving workforce services through Texas  
32 Workforce Solutions; enrolled or coenrolled in a postsecondary education or training program; or  
33 currently working in low-wage, low-skill jobs and desire a career change, promotion, or wage  
34 increase. The Commission will use the current program year to determine baseline numbers of  
35 students across these metrics.

36  
37 The Commission recognizes that the increase in career and higher education outcomes will occur  
38 gradually over multiple years through enhanced enrollment and performance criteria, incentives  
39 for innovative acceleration, integration and transition models, and related technical assistance  
40 and professional development to support expansion. This comprehensive approach will allow  
41 continuity of services, while steadily supporting an upward trajectory in the program's overall  
42 direction toward increased employment and training, outcome-based performance (consistent  
43 with the requirements in SB 307), recent changes in performance standards at the federal level,  
44 and local employer demand.

45  
46 **§805.4. Essential Program Components**

1 New §805.4 identifies the following essential program components that AEL grant recipients  
2 must ensure are provided by AEL programs:

- 3 --(1) Adult basic education;
- 4 --(2) Programs for adults of limited English proficiency;
- 5 --(3) Adult secondary education, including programs leading to a high school equivalency  
6 certificate or a high school diploma;
- 7 --(4) Instructional services to improve student proficiencies necessary to function effectively in  
8 adult life, including accessing further education, employment-related training, or employment;
- 9 --(5) Assessment and guidance services related to paragraphs (1) - (4) of this section; and
- 10 --(6) Collaboration with multiple partners in the community to expand the services available to  
11 adult learners and to prevent duplication of services.

12  
13 Based on the Commission's extensive review of TEA rules and consideration of input from  
14 numerous AEL stakeholders, new §805.4 retains the provisions of TEA rule §89.23, with  
15 modifications to make minor, nonsubstantive, editorial changes.

### 16 **§805.5. Diploma Requirements**

17 New §805.5 identifies that the standards for the awarding of diplomas to adults must be those  
18 established under 19 TAC, Chapter 74, Subchapter A (relating to Curriculum Requirements)  
19 with the following exceptions:

- 20 --(1) There shall be no limit to the number of secondary credits adults may earn by  
21 demonstration of competence.
- 22 --(2) Adults may earn the required physical education credits by one or more of the following:  
23 --(A) Satisfactory completion of approved secondary physical education courses; or  
24 --(B) Substitution of state-approved secondary elective courses.
- 25 --(3) Adults must meet the requirements for successful performance on a secondary-level test  
26 designated by the commissioner of education.

27  
28  
29 Based on the Commission's extensive review of TEA rules and consideration of input from  
30 numerous AEL stakeholders, new §805.5 retains the provisions of TEA rule §89.24, without  
31 modification.

## 32 **SUBCHAPTER B. STAFF QUALIFICATIONS**

33 **The Commission proposes new Subchapter B, Staff Qualifications, as follows:**

### 34 **§805.21. Staff Qualifications and Training**

35  
36 New §805.21 sets forth the following provisions regarding staff qualifications and training for all  
37 AEL staff hired after July 1, 2013, excluding clerical and janitorial staff:

- 38 --(1) All staff must receive at least 12 clock hours of professional development annually.
- 39 --(2) All staff new to AEL and assigned assessment and instructional duties must receive six  
40 clock hours of in-service professional development before they begin work in assessment and  
41 instructional activities, in addition to the annual professional development requirements set forth  
42 in paragraph (1) of this section.
- 43 --(3) Aides must have at least a high school diploma or high school equivalency certificate.
- 44 --(4) Directors, teachers, counselors, and supervisors shall possess at least a bachelor's degree.
- 45 --(5) Directors, teachers, counselors, and supervisors without valid Texas teacher certification  
46

1 shall attend 12 clock hours of in-service professional development annually in addition to that  
2 specified in paragraph (1) of this section until they have completed either six clock hours of AEL  
3 college credit or attained two years of AEL experience.

4 --(6) The requirements for in-service professional development may be reduced by local  
5 programs in individual cases where exceptional circumstances prevent employees from  
6 completing the required hours of in-service professional development. Documentation justifying  
7 these circumstances must be maintained. Requests for exemption from staff qualification  
8 requirements in individual cases may be submitted to the Commission for approval in the  
9 application for funding and must include justification and proposed qualifications.

10 --(7) Records of staff qualifications and professional development must be maintained by each  
11 fiscal agent and must be available for monitoring.

12 --(8) The requirements in paragraphs (1) - (6) of this section also apply to volunteers who  
13 generate student contact time, as defined in §805.2, which is accrued by the AEL program and  
14 reported to the Commission for funding purposes.

15  
16 Based on the Commission's extensive review of TEA rules and consideration of input from  
17 numerous AEL stakeholders, new §805.21 retains the provisions of TEA rule §89.25, with  
18 modifications.

19  
20 Current TEA rule at §89.25(2) requires that staff receive six clock hours of preservice  
21 professional development before they can begin work in an adult education program.  
22 Historically, the preservice requirement has led to issues and misunderstanding regarding the  
23 types of acceptable, compensable pre- and post-hire activities. Concern has been expressed that  
24 noncompensated preservice requirements hinder local programs in hiring qualified staff. An  
25 exhaustive review of local program preservice requirements indicated that many of the  
26 requirements should be considered post-hire activities, and thus staff should be compensated for  
27 their time. Thus, new §805.21(2) provides that all staff new to AEL and assigned assessment  
28 and instructional duties must receive six clock hours of in-service professional development  
29 before they begin work in assessment and instructional activities.

### 30 **§805.22. Staff Service Requirements**

31 New §805.22 provides that teachers and aides must be assigned to instruction, counseling, or  
32 assessment for a minimum of 75 percent of the hours for which they are employed. Based on the  
33 Commission's extensive review of TEA rules and consideration of input from numerous AEL  
34 stakeholders, new §805.22 retains the provisions of TEA rule §89.26, without modification.

## 35 **SUBCHAPTER C. SERVICE DELIVERY STRUCTURE AND ALIGNMENT**

36  
37 **The Commission proposes new Subchapter C, Service Delivery Structure and Alignment,  
38 as follows:**

### 39 **§805.41. Procurement and Contracting**

40  
41 New §805.41 establishes the structure of the AEL program delivery system as follows:

42 --(a) Beginning with Program Year 2014, eligible grant recipients must compete for funding  
43 through a statewide procurement process conducted in accordance with federal and state  
44 procurement requirements. AEL funding must be allocated as set forth in new §800.68 of  
45 this title.  
46



- 1 --(b) Eligible grant recipients must apply directly to the Agency using the request for proposals  
2 (RFP) process, and must meet all deadlines, requirements, and guidelines set forth in the  
3 RFP.
- 4 --(c) Contracts awarded to AEL grant recipients must be limited to two years, with the option of  
5 three one-year renewals, at the Commission's discretion. In considering a renewal, the  
6 Commission must take into account performance and other factors.
- 7 --(1) Renewals for years three, four, and five are not automatic, and are based on meeting or  
8 exceeding performance and expenditure benchmarks, or other factors as determined by  
9 the Commission.
- 10 --(2) At the completion of the five-year maximum contract term, the Agency must conduct a  
11 new competitive statewide procurement, including those contracts that have been in  
12 effect for less than the maximum five-year contract term.
- 13 --(d) Determinations by the Agency in the statewide procurement process will be based on the  
14 indicated ability of the eligible grant recipient to effectively perform all services and  
15 activities needed to fully comply with contract performance requirements and all contract  
16 terms and conditions, and may be influenced by factors used to determine the allocation of  
17 AEL funds or other objective data or criteria.

18  
19 SB 307 mandates that the Commission ensure that public school districts, public junior colleges,  
20 regional education service centers, nonprofit agencies, and community-based organizations have  
21 direct and equitable access to those funds. It is the intent of the Commission that these entities  
22 each have direct and equitable access to AEL funding opportunities, as evidenced in the  
23 proposed AEL program delivery system, and that the appropriate safeguards are in place to  
24 ensure access.

25  
26 Both SB 307 and federal law mandate that a competitive procurement process be used to award  
27 AEL funds. The last competitive procurement for these funds occurred in 2003. The lack of  
28 competitive procurement for 10 years has effectively removed incentives for performance and  
29 detrimentally affected equal and equitable access for those looking to become a part of the  
30 system. To comply with the competitive procurement process mandated by SB 307 and federal  
31 law, the Commission must address these and other issues surrounding competitive procurement,  
32 including alignment with the workforce system.

33  
34 Beginning with Program Year 2014, eligible grant recipients will be required to compete for  
35 funding through a competitive procurement process. Eligible grant recipients must apply  
36 directly to the Agency for AEL funding. Eligible grant recipients may compete against other  
37 eligible grant recipients for all or a portion of the funds allocated to each workforce area. More  
38 than one AEL grant recipient may be awarded in a workforce area. An application may  
39 represent an eligible grant recipient, consortium, or multiple consortiums, in order to  
40 demonstrate administrative efficiencies and maximization of available funds for services across a  
41 workforce area.

42  
43 It is the intent of the Commission that preference be given to grant applications that demonstrate:  
44 --the ability to expand access to services through the judicious use of distance-learning strategies  
45 in urban and rural areas, and for populations where physical access is limited;  
46 --the use of research-based models that achieve substantial learning gains in reading, writing,

1 speaking the English language, numeracy, problem solving, and other literacy skills;  
2 --the use of research-based models that facilitate and accelerate the transition of students to  
3 employment or postsecondary education and training in high-growth, high-demand occupations  
4 and career pathway models that lead to employment; and  
5 --the capability to leverage community groups in the delivery of services, including volunteer-  
6 based literacy providers, libraries, and other organizations providing AEL services.

7  
8 Preference will also be given to grant applicants that can demonstrate:

9 --the coordination of service delivery and data sharing with Boards and workforce service  
10 providers;  
11 --administrative efficiencies, including proposals reflecting less administrative costs than the  
12 maximum allowed, and maximization of funds for service delivery in workforce areas where  
13 multiple eligible grant recipients are present; and  
14 --an ability to comprehensively provide services to an entire workforce area.

15  
16 Preference will not necessarily be given to an eligible grant recipient application to serve an  
17 entire workforce area, but rather for an approach, regardless of the number of eligible grant  
18 recipients, that is the most administratively effective within a workforce area.

19  
20 Contracts awarded to AEL grant recipients will be limited to two years, providing enough time to  
21 establish programs, but with the option of three one-year renewals at the Commission's  
22 discretion, taking into account performance and other factors. Renewals for years three, four,  
23 and five are not automatic, and will be based on satisfactory performance on meeting or  
24 exceeding performance and expenditure benchmarks, or other factors as determined by the  
25 Commission. At the completion of the five-year maximum contract term, the Commission will  
26 conduct a new competitive statewide procurement. All contracts, including those that have been  
27 in effect for less than the maximum five-year contract term, must be competitively procured  
28 during subsequent statewide procurements.

29  
30 **§805.42. Program Delivery System**

31 New §805.42 sets forth the requirements for the AEL program delivery system:

32 --(a) There shall be a statewide AEL program delivery system that provides AEL services on a  
33 coordinated basis within each workforce area.

34 --(b) An eligible grant recipient must apply directly to the Agency for AEL funding.

35 --(c) Each eligible grant recipient must demonstrate an ability to:

36 --(1) plan and develop a service delivery strategy that includes a broad analysis of the  
37 educational, economic, and workforce development trends across the entire workforce  
38 area to provide eligible AEL students with comprehensive and locally responsive  
39 services; and

40 --(2) expand, improve, and coordinate delivery of education, career training, workforce  
41 development, and support services.

42 --(d) Each eligible grant recipient applying for AEL funding on behalf of an AEL consortium  
43 must:

44 --(1) meet the requirements set forth in subsection (c)(1) - (2) of this section;

45 --(2) designate an entity to serve as the AEL lead organization of the consortium; and

1 --(3) designate an entity to serve as AEL fiscal agent for the AEL consortium. The AEL  
2 fiscal agent is responsible for making and filing all financial reports to the AEL grant  
3 recipient that will review all reports and submit to the Agency on behalf of the  
4 consortium.

5 --(e) An AEL grant application must reflect service delivery strategies for the workforce area.  
6 In workforce areas that are heavily populated or have large service regions, the Agency  
7 may elect to contract with more than one AEL grant recipient within a workforce area.  
8

9 --(f) An AEL grant recipient, awarded AEL funds from the Agency, shall be responsible for  
10 performing all services and activities required to fully comply with contract performance  
11 requirements and all contract terms and conditions. Responsibilities include, but are not  
12 limited to, the following:

13 --(1) Communication.

14 --(A) The AEL grant recipient shall serve as the point of contact with the Agency.

15 --(B) For an AEL consortium, on behalf of AEL consortium members, the AEL grant  
16 recipient must:

17 --(i) transmit questions and grant-related needs for AEL consortium members to  
18 the Agency; and

19 --(ii) carry out the programmatic functions of an AEL grant by communicating  
20 regularly with members of the AEL consortium, and by sharing information,  
21 policy or procedural changes, and technical assistance provided by the Agency to  
22 oversee the grant.

23 --(2) Monitoring. The AEL grant recipient must:

24 --(A) monitor programmatic and fiscal progress against goals and project deliverables;  
25 and

26 --(B) timely notify the Agency of problems related to achievement of programmatic  
27 and fiscal goals of the grant in accordance with appropriate systems to receive and  
28 compile outcome measures and fiscal reports.

29 --(3) Technical assistance. The AEL grant recipient must carry out the programmatic and  
30 reporting functions of an AEL grant by providing or requesting technical assistance  
31 for its program, or in an AEL consortium for AEL consortium members, related to the  
32 design, implementation, and internal evaluation of their AEL services or support  
33 services.

34 --(4) Professional development. The AEL grant recipient must plan and coordinate the  
35 provision of necessary professional development opportunities for its program, or in  
36 an AEL consortium to the AEL consortium members.

37 --(5) Reporting. The AEL grant recipient must:

38 --(A) collect and compile all fiscal and programmatic information regarding the  
39 activities, expenses, and performance outputs and outcomes of the AEL grant; and

40 --(B) submit this information to the Agency.

41 --(6) Workforce Area Coverage.

42 --(A) The AEL grant recipient shall ensure that services are provided to the portion of  
43 the workforce area designated in the AEL grant application, whether through in-  
44 person services or distance learning, or a combination of methods.

45 --(B) For an AEL consortium, the AEL grant recipient must ensure that services are  
46 provided to the portion of the workforce area designated for the consortium in the

1 AEL grant application, whether through in-person services or distance learning, or  
2 a combination of methods.

3 --(i) If a consortium member fails to perform in accordance with the consortium's  
4 coordinated service delivery plan, the AEL grant recipient must provide or  
5 request technical assistance, as appropriate.

6 --(ii) If a consortium member withdraws from a consortium, the AEL grant  
7 recipient must ensure that a letter of intent to withdraw is provided to the  
8 Agency contract manager. The AEL grant recipient must coordinate with  
9 remaining consortium members to develop an alternative proposal for service  
10 delivery and submit it to the Agency for approval.

11 --(iii) If an AEL lead organization of a consortium withdraws from a consortium  
12 or from its role as the lead organization of the consortium, the AEL grant  
13 recipient must ensure that a letter of intent to withdraw is provided to the  
14 Agency contract manager. The AEL grant recipient must coordinate with  
15 remaining consortium members to identify an alternative lead organization of  
16 the consortium and submit it to the Agency for approval; and

17 --(iv) If, in a workforce area with multiple consortiums that cover the entire  
18 workforce area, one or more consortiums withdraws, the AEL grant recipient  
19 shall ensure that a letter of intent to withdraw is provided to the Agency's grant  
20 contract manager. The Agency will coordinate with the remaining  
21 consortiums to develop an alternative proposal for service delivery for the  
22 entire workforce area.

23 --(g) For an AEL consortium, the Agency reserves the right to reevaluate an AEL grant in light  
24 of any change in the AEL consortium membership based upon the consortium's continued  
25 ability to meet the terms of the original grant award as demonstrated through the  
26 alternative proposal. The Agency's reevaluation may include termination of all awards  
27 under the AEL consortium if deemed appropriate.

28 --(1) If an AEL consortium or AEL consortium member withdraws, the funds and  
29 activities committed to in the application may not be shifted to another AEL  
30 consortium, AEL consortium member, or to a new institution without written  
31 Agency approval.

32 --(2) The AEL grant recipient must contact the Agency-designated grant contract manager  
33 to discuss options for replacement grants within the AEL consortium.

34  
35 TEA rule §89.22 mandated a statewide system of adult education cooperatives for the  
36 coordinated provision of adult education services. Service delivery areas, while not clearly  
37 defined, must be large enough to support required program activities while allowing for the  
38 efficient and effective delivery of services. Under the existing model, eligible grant recipients  
39 have applied directly to TEA for funding often working in coordination with a  
40 consortium/cooperative to reduce duplication of services and minimize excessive costs. Each  
41 consortium has been headed by a grant applicant that serves as the lead for the consortium and  
42 acts as the fiscal agent. There has been no prohibition against entities that directly provide AEL  
43 services from acting as the fiscal agent of the consortium.

44  
45 Currently, there is a statewide network of 55 consortium grantees that deliver AEL services and  
46 53 grantees, often overlapping, that deliver English Literacy and Civics services. TEA service

1 delivery areas are not consistently aligned with the Commission's workforce areas, independent  
2 school districts, education service center regions, or community college districts. As a result,  
3 each workforce area may have multiple service providers, potentially creating inefficiencies and  
4 difficulties in aligning AEL programs with workforce services, data, and resources, and,  
5 ultimately, programmatic employment goals and objectives.

6  
7 The Texas workforce system is organized geographically across the state, comprising 28  
8 workforce areas with workforce services managed by a network of Boards. Boards are  
9 responsible for contracting out most direct services through local contractors that operate largely  
10 through Workforce Solutions Offices. Recognizing the importance of program efficiencies and  
11 avoiding duplication of services, and that one service delivery model may not work in all parts of  
12 the state, the new AEL program delivery system will require that service delivery areas be  
13 defined and represented by grant recipients that drive service delivery, but enhancing efficiency  
14 and coordination with the Texas workforce system by requiring that service delivery areas be  
15 aligned geographically with workforce areas. Thus, AEL funds will be allocated geographically  
16 to workforce areas, and eligible grant recipients, as defined in §805.2(8), will apply directly to  
17 the Commission for AEL funding.

18  
19 The Commission believes that students are best served through a model where partners can provide  
20 an array of services. The main function of the grant recipient is to apply and execute AEL funds  
21 in a strategic, coordinated, and cost-efficient manner. If the eligible grant recipient is an AEL  
22 consortium, it must include an AEL grant recipient, AEL service provider(s), and an AEL fiscal  
23 agent. Definitions of AEL grant recipient, AEL service provider, and AEL fiscal agent are set  
24 forth in §805.2. Consortium members may serve in one or more of these capacities.  
25 Historically, AEL grantees have assumed all of these roles. By defining these functions  
26 independently, the Commission intends to provide flexibility and to open access to different  
27 organizations to execute roles centered on their individual organizational strengths. For  
28 example, a Board may have strong fiscal and monitoring abilities and provide a variety of  
29 organizational and workforce development resources, while a regional literacy council may be  
30 less established in these areas, but better able to coordinate, direct, and align educational services  
31 across a workforce area. Community colleges and local education agencies, each within their  
32 specific service areas, would act in their traditional role as service providers. By acting in  
33 concert, and leveraging their organizational strengths, these diverse consortium members would  
34 be more competitively positioned to effectively and efficiently address the needs of regions  
35 larger than many grant recipients historically have been able to address, but without forcing  
36 organizations to operate outside their areas of strength or designated service areas. To  
37 complement and augment services to address the varied needs of adult learners, consortiums may  
38 include other educational and human service agencies, community-based organizations, libraries,  
39 and volunteer-based literacy providers that agree to collaborate for the provision and support of  
40 AEL services. These groups would combine resources and services to comprehensively serve  
41 and support those eligible to receive AEL services.

42  
43 At a minimum, Boards are expected to support AEL grant recipients with strategic and program  
44 design guidance through analysis of employment statistics and local labor market information,  
45 regional economic development, and industry or occupational demand studies; identification of  
46 targeted high-growth or emerging industries; and prioritization or targeting of high-growth, high-

1 demand occupations for which Boards direct their training resources. Boards may also support  
2 direct services for eligible individuals by aligning the education, training, and employment  
3 services and support services provided by their workforce service providers with AEL service  
4 providers such as enrollment or coenrollment in technical training, related support services, on-  
5 the-job training, and employment guidance.

6  
7 The intent of the Commission is to establish a statewide system of AEL grant recipients aligned  
8 and coordinated with the workforce system that provide AEL services on a coordinated basis  
9 within each workforce area. Each AEL grant recipient must plan and develop a service delivery  
10 strategy that includes a broad analysis of the educational, economic, and workforce development  
11 trends across the entire workforce area to provide eligible AEL students with comprehensive and  
12 locally responsive services. AEL grant recipients must also expand, improve, and coordinate  
13 delivery of education, career training, workforce development, and support services to support  
14 both program performance and greater efficiencies.

15  
16 An AEL grant recipient must perform all services and activities required to fully comply with the  
17 Agency's contract performance requirements and all contract terms and conditions. An AEL  
18 grant recipient's responsibilities include, but are not limited to, communication, monitoring,  
19 technical assistance, professional development, reporting, and ensuring workforce area coverage,  
20 as set forth in §805.42(d).

21  
22 It is also the Commission's intent that if the AEL grant recipient is an AEL consortium, it must  
23 designate an entity to serve as the AEL lead organization of the consortium and designate an  
24 entity to serve as AEL fiscal agent for the AEL consortium.

25  
26 The AEL fiscal agent is responsible for making and filing all financial reports with the AEL  
27 grant recipient that will review all reports and submit to the Agency on behalf of the consortium.

### 28 **§805.43. Advisory Committees**

29 New §805.43 sets forth the criteria regarding a statewide AEL advisory committee.

30 --Statewide Advisory Committee--The Commission shall establish a statewide AEL advisory  
31 committee, composed of not more than nine members appointed by the Commission.

32 --(1) Committee members must:

33 --(A) have expertise in AEL and may include adult educators, providers, advocates,  
34 current or former AEL program students, and leaders in the nonprofit community  
35 engaged in literacy promotion efforts;

36 --(B) include at least one representative of the business community and at least one  
37 representative of a Board; and

38 --(C) serve for staggered two-year terms and be limited to one term.

39 --(2) Membership shall be reviewed when a member's employment changes to determine  
40 whether the individual continues to meet the requirements for membership.

41 --(3) The committee shall meet at least quarterly and report to the Commission on an  
42 annual basis.

43  
44  
45 SB 307 mandates the establishment of a statewide AEL committee. The statute requires that the  
46 committee must meet at least quarterly, and advise the Agency annually on a number of issues

1 pertaining to the AEL community. These issues include the development of policies and  
2 program priorities that support the development of an educated and skilled workforce in Texas,  
3 statewide curriculum guidelines and standards for AEL services that ensure a balance of  
4 education and workplace skill development, a statewide strategy for improving student  
5 transitions to postsecondary education and career and technical education training, and a  
6 centralized system for collecting and tracking comprehensive data on performance outcomes.

7  
8 Consistent with statutory requirements, the committee must be composed of no more than nine  
9 members appointed by the Commission, and members must have expertise in AEL; may include  
10 adult educators, providers, advocates, current or former AEL program students, and leaders in  
11 the nonprofit community engaged in literacy promotion efforts; and must include at least one  
12 representative of the business community and at least one representative of a Board.

13  
14 To support the statewide advisory committee, the Agency will plan, organize, and staff the  
15 meetings of the advisory committee. Members will be appointed for staggered two-year terms,  
16 with initial terms being two years or three years based on random selection by the members, with  
17 membership limited to one term. Continued membership will be reviewed when a member no  
18 longer serves in the same employment capacity as when appointed.

19  
20 Current TEA rule §89.28 provides a basis for the use of local advisory committees. There are  
21 currently a number of local advisory committees in place, linked in large part with the existing  
22 AEL cooperatives. Although not mandated in rule, the Commission recognizes the importance of  
23 local communities using local advisory committees or other mechanisms to bring a broad  
24 spectrum of community representatives together locally to ensure that the resources available to  
25 support AEL efforts are fully integrated with other partner services. The Commission expects  
26 that workforce areas will establish methods for ensuring that Boards and AEL grant recipients  
27 regularly communicate and plan for the delivery of services to their common customers.

#### 28 29 **§805.44. Match Requirements**

30 New §805.44 sets forth the requirements for match requirements, as follows:

31 --(a) AEL grant recipients must provide and document any cash or in-kind match. The match  
32 must be met using non-federal (i.e., local or state) sources.

33 --(b) The cash or in-kind match may be obtained from any state or local source that is fairly  
34 evaluated, excluding any sources of federal funds.

35 --(c) The match may include allowable costs, including the following:

36 --(1) goods and services;

37 --(2) fair market value of third-party goods and services donated by volunteers and  
38 employees or other organizations; and

39 --(3) supplies, equipment, and building space not owned by the fiscal agent.

40 --(d) The AEL grant recipient is required to maintain auditable records for all expenditures  
41 relating to the cash or in-kind match the same as for the funds granted through an approved  
42 application.

43 --(e) If public funds, other than state and federal adult education funds, are used in the AEL  
44 instructional program, the program may claim a proportionate share of the student contact time  
45 as the cash or in-kind match.

1 Based on the Commission's extensive review of TEA rules and consideration of input from  
2 numerous AEL stakeholders, new §805.44 retains the provisions of TEA rule §89.32, without  
3 modification.

4  
5 **§805.45. Tuition and Fees**

6 New §805.45 provides that tuition and fees must not be charged unless the entity charging them  
7 is statutorily authorized to do so. Funds generated by tuition and fees must be used for the AEL  
8 instructional programs.

9  
10 Based on the Commission's extensive review of TEA rules and consideration of input from  
11 numerous AEL stakeholders, this section retains the provisions of TEA rule §89.33, without  
12 modification.

13  
14 **SUBCHAPTER D. OTHER PROVISIONS**

15 **The Commission proposes new Subchapter D, Other Provisions, as follows:**

16  
17 **§805.61. Staff Development and Special Projects**

18 New §805.61 provides that from the federal funds set aside for state administration, special  
19 projects, staff development, and leadership, a portion of funds shall be used to provide training  
20 and professional development to organizations that are not currently receiving grants but are  
21 providing literacy services.

22  
23 Based on the Commission's extensive review of TEA rules and consideration of input from  
24 numerous AEL stakeholders, new §805.61 retains the provisions of TEA rule §89.34(b), without  
25 modification.

26  
27 **§805.62. Evaluation of Programs**

28 New §805.62 sets forth that the Commission shall evaluate AEL programs based on the  
29 indicators of program quality for adult education. Based on the Commission's extensive review  
30 of TEA rules and consideration of input from numerous AEL stakeholders, new §805.62 retains  
31 the provisions of TEA rule §89.34(c), with modifications to make minor, nonsubstantive,  
32 editorial changes.

33  
34  
35 **PART III. IMPACT STATEMENTS**

36 Randy Townsend, Chief Financial Officer, has determined that for each year of the first five  
37 years the rules will be in effect, the following statements will apply:

38  
39 There are no additional estimated costs to the state and local governments expected as a result of  
40 enforcing or administering the rules.

41  
42 There are no estimated cost reductions to the state and to local governments as a result of  
43 enforcing or administering the rules.

44  
45 There are no estimated losses or increases in revenue to the state or to local governments as a  
46 result of enforcing or administering the rules.



1  
2 There are no foreseeable implications relating to costs or revenue of the state or local  
3 governments as a result of enforcing or administering the rules.

4  
5 There are no anticipated economic costs to persons required to comply with the rules.

6  
7 There is no anticipated adverse economic impact on small or microbusinesses as a result of  
8 enforcing or administering the rules.

9  
10 Economic Impact Statement and Regulatory Flexibility Analysis

11 The Agency has determined that the proposed rules will not have an adverse economic impact on  
12 small businesses as these proposed rules place no requirements on small businesses.

13  
14 Richard C. Froeschle, Director of Labor Market and Career Information, has determined that  
15 there is no significant negative impact upon employment conditions in the state as a result of the  
16 rules.

17  
18 Reagan Miller, Director, Workforce Development Division, has determined that for each year of  
19 the first five years the rules are in effect, the public benefit anticipated as a result of enforcing the  
20 proposed rules will be to provide for the effective administration of AEL services that are  
21 aligned with other services provided through the workforce system.

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

25  
26 **PART IV. COORDINATION ACTIVITIES**

27 In the development of these rules for publication and public comment, the Commission sought  
28 the involvement of Texas' 28 Boards and AEL stakeholders. The Commission provided the  
29 concept paper regarding these rule amendments to the Boards and AEL stakeholders for  
30 consideration and review on September 11, 2013. The Commission also conducted a webinar on  
31 September 19, 2013, to discuss the concept paper. During the rulemaking process, the  
32 Commission considered all information gathered in order to develop rules that provide clear and  
33 concise direction to all parties involved.

34  
35 Comments on the proposed rules may be submitted to TWC Policy Comments, Workforce  
36 Policy and Service Delivery, attn: Workforce Editing, 101 East 15th Street, Room 440T, Austin,  
37 Texas 78778; faxed to (512) 475-3577; or e-mailed to TWCPolicyComments@twc.state.tx.us.

38  
39 The Commission must receive comments postmarked no later than 30 days from the date this  
40 proposal is published in the *Texas Register*.

41  
42 The new rules are proposed under Texas Labor Code §301.0015 and §302.002(d), which provide  
43 the Texas Workforce Commission with the authority to adopt, amend, or repeal such rules as it  
44 deems necessary for the effective administration of Agency services and activities.

45  
46 The new rules affect Title 4, Texas Labor Code, particularly Chapters 301 and 302.

1  
2 **CHAPTER 805. ADULT EDUCATION AND LITERACY**

3  
4 **SUBCHAPTER A. GENERAL PROVISIONS**

5  
6 **§805.1. Purpose.**

- 7  
8 (a) The rules contained in this chapter may be cited as the Adult Education and Literacy  
9 (AEL) rules.  
10  
11 (b) The purpose of the AEL programs is to provide adults with sufficient basic education  
12 that enables them to effectively:  
13  
14 (1) acquire the basic educational skills necessary for literate functioning;  
15  
16 (2) participate in job training and retraining programs;  
17  
18 (3) obtain and retain employment; and  
19  
20 (4) continue their education to at least the level of completion of secondary school.  
21

22 **§805.2. Definitions.**

23  
24 The following words and terms, when used in this chapter, shall have the following  
25 meanings, unless the context clearly indicates otherwise.  
26

- 27 (1) Adult education--Basic and secondary instruction and services for adults.  
28  
29 (A) Adult basic education (ABE)--Instruction in reading, writing, and  
30 speaking and comprehending English, and solving quantitative problems,  
31 including functional context, designed for adults who:  
32  
33 (i) have minimal competence in reading, writing, and solving  
34 quantitative problems;  
35  
36 (ii) are not sufficiently competent to speak, read, or write the English  
37 language; or  
38  
39 (iii) are not sufficiently competent to meet the requirements of adult life  
40 in the United States, including employment commensurate with the  
41 adult's real ability.  
42  
43 (B) Adult secondary education (ASE)--Comprehensive secondary instruction  
44 below the college credit level in reading, writing and literature,  
45 mathematics, science, and social studies, including functional context, and  
46 instruction for adults who do not have a high school diploma or its  
47 equivalent.

1  
2 (C) English literacy education (EL)--Instruction designed to help adults with  
3 limited English proficiency achieve competence in the English language.  
4

5 (2) AEL consortium--A partnership of educational, workforce development, social  
6 service entities, and other public and private organizations that agree to  
7 partner, collaborate, plan, and apply for funding to provide AEL and related  
8 support services. Consortium members shall include an AEL grant recipient,  
9 AEL fiscal agent, an AEL lead organization of a consortium, and AEL service  
10 provider(s). Consortium members may serve in one or more of the functions  
11 in accordance with state statutes and Commission rules.  
12

13 (3) AEL fiscal agent--An entity that is assigned financial management duties as  
14 outlined in an Agency-AEL contract or is assigned this function as a member  
15 of an AEL consortium.  
16

17 (4) AEL grant recipient--An eligible grant recipient within a local workforce  
18 development area (workforce area), as defined in §800.2(11) of this title, that is  
19 awarded AEL funds by the Agency. The AEL grant recipient also may act as  
20 an AEL lead organization of a consortium, AEL fiscal agent, or AEL service  
21 provider as designated in an agreement with an AEL consortium.  
22

23 (5) AEL lead organization of a consortium--An organization designated as the  
24 AEL consortium manager in a written agreement between AEL consortium  
25 members. The AEL lead organization of a consortium is responsible for  
26 planning and leadership responsibilities as outlined in the written agreement  
27 and also may serve as an AEL grant recipient, AEL fiscal agent, or AEL  
28 service provider. If a consortium does not identify the lead organization of a  
29 consortium through a written agreement, the AEL grant recipient will be  
30 presumed to assume the responsibility of the lead organization of the  
31 consortium.  
32

33 (6) AEL service provider--An entity that is eligible to provide AEL services as  
34 specified in 20 USC §9202 and Texas Labor Code §315.003.  
35

36 (7) Contact time--The cumulative sum of minutes during which an eligible adult  
37 student receives instructional, counseling, or assessment services by a staff  
38 member supported by federal and state AEL funds as documented by local  
39 attendance and reporting records.  
40

41 (A) Student contact time generated by volunteers may be accrued by the AEL  
42 program when volunteer services are verifiable by attendance and  
43 reporting records and volunteers meet requirements under §805.21 of this  
44 title (relating to Staff Qualifications and Training).  
45

46 (B) A student contact hour is 60 minutes.

- 1  
2 (8) Eligible grant recipient--An entity, as specified in state and federal law, that is  
3 eligible to receive AEL program funding. Eligible grant recipients include:  
4  
5 (A) a local educational agency;  
6  
7 (B) a community-based organization of demonstrated effectiveness;  
8  
9 (C) a volunteer literacy organization of demonstrated effectiveness;  
10  
11 (D) an institution of higher education;  
12  
13 (E) a public or private nonprofit agency;  
14  
15 (F) a library;  
16  
17 (G) a public housing authority;  
18  
19 (H) a nonprofit institution that is not described in any of subparagraphs (A) -  
20 (G) of this paragraph and has the ability to provide literacy services to  
21 adults and families; and  
22  
23 (I) a consortium of the agencies, organizations, institutions, libraries, or  
24 authorities described in any of subparagraphs (A) - (H) of this paragraph.  
25

26 **§805.3. Federal and State AEL Funds.**  
27

- 28 (a) Federal AEL funds may be used for AEL programs for out-of-school individuals  
29 who have attained 16 years of age and:  
30  
31 (1) function at less than a secondary school completion level;  
32  
33 (2) lack a secondary school credential; or  
34  
35 (3) are unable to speak, read, or write in English.  
36  
37 (b) State AEL funds are to be used for AEL programs for out-of-school individuals who  
38 are beyond compulsory school attendance age and:  
39  
40 (1) function at less than a secondary school completion level;  
41  
42 (2) lack a secondary school credential; or  
43  
44 (3) are unable to speak, read, or write in English.  
45  
46 (c) The proportion of students served who meet the requirements of subsection (a) of

1 this section, but do not meet the requirements of subsection (b) of this section, shall  
2 not exceed the grant recipient's percentage of federal funds to the total allocation.  
3

- 4 (d) The Commission shall establish annual performance benchmarks for the use of AEL  
5 funds in serving specific student populations, including the population of students  
6 receiving other workforce services or coenrolled in postsecondary education or  
7 training.  
8

9 **§805.4. Essential Program Components.**

10 An AEL grant recipient shall ensure that AEL programs provide the following essential  
11 program components:  
12

- 13  
14 (1) Adult basic education;  
15  
16 (2) programs for adults of limited English proficiency;  
17  
18 (3) adult secondary education, including programs leading to a high school  
19 equivalency certificate or a high school diploma;  
20  
21 (4) instructional services to improve student proficiencies necessary to function  
22 effectively in adult life, including accessing further education, employment-  
23 related training, or employment;  
24  
25 (5) assessment and guidance services related to paragraphs (1) - (4) of this section;  
26 and  
27  
28 (6) collaboration with multiple partners in the community to expand the services  
29 available to adult learners and to prevent duplication of services.  
30

31 **§805.5. Diploma Requirements.**

32  
33 The standards for the awarding of diplomas to adults shall be those established under 19  
34 Texas Administrative Code, Chapter 74, Subchapter A (relating to Curriculum  
35 Requirements) with the following exceptions.  
36

- 37 (1) There shall be no limit to the number of secondary credits adults may earn by  
38 demonstration of competence.  
39  
40 (2) Adults may earn the required physical education credits by one or more of the  
41 following:  
42  
43 (A) Satisfactory completion of approved secondary physical education  
44 courses; or  
45  
46 (B) Substitution of state-approved secondary elective courses.

- 1  
2 (3) Adults shall meet the requirements for successful performance on a secondary-  
3 level test designated by the commissioner of education.  
4

5 **SUBCHAPTER B. STAFF QUALIFICATIONS**  
6

7 **§805.21. Staff Qualifications and Training.**  
8

9 The requirements of this section shall apply to all AEL staff hired after July 1, 2013,  
10 excluding clerical and janitorial staff.  
11

- 12 (1) All staff shall receive at least 12 clock hours of professional development  
13 annually.  
14
- 15 (2) All staff new to AEL and assigned assessment and instructional duties shall  
16 receive six clock hours of in-service professional development before they  
17 begin work in assessment and instructional activities, in addition to the annual  
18 professional development requirements set forth in paragraph (1) of this  
19 section.  
20
- 21 (3) Aides shall have at least a high school diploma or high school equivalency  
22 certificate.  
23
- 24 (4) Directors, teachers, counselors, and supervisors shall possess at least a  
25 bachelor's degree.  
26
- 27 (5) Directors, teachers, counselors, and supervisors without valid Texas teacher  
28 certification shall attend 12 clock hours of in-service professional development  
29 annually, in addition to that specified in paragraph (2) of this section, until they  
30 have completed either six clock hours of AEL college credit or attained two  
31 years of AEL experience.  
32
- 33 (6) The requirements for in-service professional development may be reduced by  
34 local programs in individual cases where exceptional circumstances prevent  
35 employees from completing the required hours of in-service professional  
36 development. Documentation justifying these circumstances shall be  
37 maintained. Requests for exemption from staff qualification requirements in  
38 individual cases may be submitted to the Commission for approval in the  
39 application for funding and shall include justification and proposed  
40 qualifications.  
41
- 42 (7) Records of staff qualifications and professional development shall be  
43 maintained by each fiscal agent and shall be available for monitoring.  
44
- 45 (8) The requirements in paragraphs (1) - (6) of this section also apply to volunteers  
46 who generate student contact time, as defined in §805.2, which is accrued by

1 the AEL program and reported to the Commission for funding purposes.

2  
3 **§805.22. Staff Service Requirements.**

4  
5 Teachers and aides shall be assigned to instruction, counseling, or assessment for a  
6 minimum of 75 percent of the hours for which they are employed.  
7

8 **SUBCHAPTER C. SERVICE DELIVERY STRUCTURE AND ALIGNMENT**

9  
10 **§805.41. Procurement and Contracting.**

- 11
- 12 (a) Beginning with Program Year 2014, eligible grant recipients shall compete for  
13 funding through a statewide procurement process conducted in accordance with  
14 federal and state procurement requirements. AEL funding shall be allocated as set  
15 forth in §800.68 of this title.
- 16
- 17 (b) Eligible grant recipients shall apply directly to the Agency using the request for  
18 proposals (RFP) process, and shall meet all deadlines, requirements, and guidelines  
19 set forth in the RFP.  
20
- 21 (c) Contracts awarded to AEL grant recipients shall be limited to two years, with the  
22 option of three one-year renewals, at the Commission's discretion. In considering a  
23 renewal, the Commission shall take into account performance and other factors.  
24
- 25 (1) Renewals for years three, four, and five are not automatic, and are based on  
26 meeting or exceeding performance and expenditure benchmarks, or other factors  
27 as determined by the Commission.  
28
- 29 (2) At the completion of the five-year maximum contract term, the Agency shall  
30 conduct a new competitive statewide procurement, including those contracts that  
31 have been in effect for less than the maximum five-year contract term.  
32
- 33 (d) Determinations by the Agency in the statewide procurement process will be based on  
34 the indicated ability of the eligible grant recipient to effectively perform all services  
35 and activities needed to fully comply with contract performance requirements and all  
36 contract terms and conditions, and may be influenced by factors used to determine  
37 the allocation of AEL funds or other objective data or criteria.  
38

39 **§805.42. Program Delivery System.**

- 40
- 41 (a) There shall be a statewide AEL program delivery system that provides AEL services  
42 on a coordinated basis within each workforce area.  
43
- 44 (b) An eligible grant recipient must apply directly to the Agency for AEL funding.  
45
- 46 (c) Each eligible grant recipient must demonstrate an ability to:  
47

- 1 (1) plan and develop a service delivery strategy that includes a broad analysis of  
2 the educational, economic, and workforce development trends across the entire  
3 workforce area to provide eligible AEL students with comprehensive and  
4 locally responsive services; and  
5  
6 (2) expand, improve, and coordinate delivery of education, career training,  
7 workforce development, and support services.
- 8 (d) Each eligible grant recipient applying for AEL funding on behalf of an AEL  
9 consortium must:
- 10 (1) meet the requirements set forth in subsection (c)(1) - (2) of this section;  
11 (2) designate an entity to serve as the AEL lead organization of the consortium;  
12 and  
13  
14 (3) designate an entity to serve as AEL fiscal agent for the AEL consortium. The  
15 AEL fiscal agent is responsible for making and filing all financial reports to the  
16 AEL grant recipient that will review all reports and submit to the Agency on  
17 behalf of the consortium.  
18
- 19 (e) An AEL grant application must reflect service delivery strategies for the workforce  
20 area. In workforce areas that are heavily populated or have large service regions, the  
21 Agency may elect to contract with more than one AEL grant recipient within a  
22 workforce area.  
23
- 24 (f) An AEL grant recipient, awarded AEL funds by the Agency, shall be responsible for  
25 performing all services and activities required to fully comply with contract  
26 performance requirements and all contract terms and conditions. Responsibilities  
27 include, but are not limited, to the following:  
28
- 29 (1) Communication.
- 30  
31 (A) The AEL grant recipient shall serve as the point of contact with the  
32 Agency.  
33  
34 (B) For an AEL consortium, on behalf of AEL consortium members, the AEL  
35 grant recipient shall:
- 36  
37 (i) transmit questions and grant-related needs for AEL consortium  
38 members to the Agency; and  
39  
40 (ii) carry out the programmatic functions of an AEL grant by  
41 communicating regularly with members of the AEL consortium and  
42 by sharing information, policy or procedural changes, and technical  
43 assistance provided by the Agency to oversee the grant.  
44
- 45 (2) Monitoring. The AEL grant recipient shall:



- 1  
2 (A) monitor programmatic and fiscal progress against goals and project  
3 deliverables; and  
4  
5 (B) timely notify the Agency of problems related to achievement of  
6 programmatic and fiscal goals of the grant in accordance with  
7 appropriate systems to receive and compile outcome measures and fiscal  
8 reports.  
9
- 10 (3) Technical assistance. The AEL grant recipient shall carry out the  
11 programmatic and reporting functions of an AEL grant by providing or  
12 requesting technical assistance for its program, or in an AEL consortium for  
13 AEL consortium members, related to the design, implementation, and internal  
14 evaluation of their AEL services or support services.  
15
- 16 (4) Professional development. The AEL grant recipient shall plan and coordinate  
17 the provision of necessary professional development opportunities for its  
18 program, or in an AEL consortium to the AEL consortium members.  
19
- 20 (5) Reporting. The AEL grant recipient shall:  
21  
22 (A) collect and compile all fiscal and programmatic information regarding  
23 the activities, expenses, and performance outputs and outcomes of the  
24 AEL grant; and  
25  
26 (B) submit this information to the Agency.  
27
- 28 (6) Workforce area coverage.  
29
- 30 (A) The AEL grant recipient shall ensure that services are provided to the  
31 portion of the workforce area designated in the AEL grant application,  
32 whether through in-person services or distance learning, or a  
33 combination of methods.  
34
- 35 (B) For an AEL consortium, the AEL grant recipient shall ensure that  
36 services are provided to the portion of the workforce area, as designated  
37 for the consortium in the AEL grant application, whether through in-  
38 person services or distance learning, or a combination of methods.  
39
- 40 (i) If a consortium member fails to perform in accordance with the AEL  
41 consortium's coordinated service delivery plan, the AEL grant  
42 recipient shall provide technical assistance, as appropriate;  
43
- 44 (ii) If a consortium member withdraws from a consortium, the AEL  
45 grant recipient shall ensure that a letter of intent to withdraw is  
46 provided to the Agency's grant contract manager. The AEL grant

1 recipient shall coordinate with remaining consortium members to  
2 develop an alternative proposal for service delivery and submit it to  
3 the Agency for approval;

4  
5 (iii) If an AEL lead organization of a consortium withdraws from a  
6 consortium or from its role as the lead organization of the  
7 consortium, the AEL grant recipient must ensure that a letter of  
8 intent to withdraw is provided to the Agency contract manager. The  
9 AEL grant recipient must coordinate with remaining consortium  
10 members to identify an alternative lead organization of the  
11 consortium and submit it to the Agency for approval; and  
12

13 (iv) If, in a workforce area with multiple consortiums that cover the  
14 entire workforce area, one or more consortiums withdraws, the AEL  
15 grant recipient shall ensure that a letter of intent to withdraw is  
16 provided to the Agency's grant contract manager. The Agency will  
17 coordinate with the remaining consortiums to develop an alternative  
18 proposal for service delivery for the entire workforce area.  
19

20 (g) For an AEL consortium, the Agency reserves the right to reevaluate an AEL grant in  
21 light of any change in the AEL consortium membership based on the consortium's  
22 continued ability to meet the terms of the original grant award as demonstrated  
23 through an alternative proposal. The Agency's reevaluation may include termination  
24 of all awards under the AEL consortium if deemed appropriate.  
25

26 (1) If an AEL consortium or AEL consortium member withdraws, the funds and  
27 activities committed to in the application shall not be shifted to another AEL  
28 consortium, AEL consortium member, or a new institution without written  
29 Agency approval.  
30

31 (2) The AEL grant recipient shall contact the Agency's grant contract manager to  
32 discuss options for replacement grants within the AEL consortium.  
33

### 34 **§805.43. Advisory Committees.**

35  
36 Statewide Advisory Committee. The Commission shall establish a statewide AEL  
37 advisory committee, composed of no more than nine members appointed by the  
38 Commission.  
39

40 (1) Committee members shall:

41  
42 (A) have AEL expertise and may include adult educators, providers,  
43 advocates, current or former AEL students, and leaders in the nonprofit  
44 community engaged in literacy promotion efforts;  
45

46 (B) include at least one representative of the business community and at

1 least one representative of a Local Workforce Development Board  
2 (Board); and

3  
4 (C) serve for staggered two-year terms and be limited to one term.

5  
6 (2) Membership shall be reviewed when a member's employment changes to  
7 determine whether the individual continues to meet the requirements for  
8 membership.

9  
10 (3) The committee shall meet at least quarterly and report to the Commission on  
11 an annual basis.

12  
13 **§805.44. Match Requirements.**

14  
15 (a) AEL grant recipients shall provide and document any cash or in-kind match. The  
16 match shall be met using nonfederal (i.e., local or state) sources.

17  
18 (b) The cash or in-kind match may be obtained from any state or local source that is  
19 fairly evaluated, excluding any sources of federal funds.

20  
21 (c) The match may include allowable costs, including the following:

22  
23 (1) Goods and services;

24  
25 (2) Fair market value of third-party goods and services donated by volunteers and  
26 employees or other organizations; and

27  
28 (3) Supplies, equipment, and building space not owned by the AEL fiscal agent.

29  
30 (d) The AEL grant recipient shall maintain auditable records for all expenditures relating  
31 to the cash or in-kind match, the same as for funds granted through an approved  
32 application.

33  
34 (e) If public funds are used, other than state and federal AEL funds, in AEL  
35 instructional programs, the programs may claim a proportionate share of the student  
36 contact time as the cash or in-kind match.

37  
38 **§805.45. Tuition and Fees.**

39  
40 Tuition and fees shall not be charged unless the entity charging them is statutorily  
41 authorized to do so. Funds generated by tuition and fees shall be used for the AEL  
42 instructional programs.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15

**SUBCHAPTER D. OTHER PROVISIONS**

**§805.61. Staff Development and Special Projects.**

From the federal funds set aside for state administration, special projects, staff development, and leadership, a portion of funds shall be used to provide training and professional development to organizations that are not currently receiving grants but are providing literacy services.

**§805.62. Evaluation of Programs.**

The Commission shall evaluate AEL programs based on the indicators of program quality for adult education.