

1 **CHAPTER 813. SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM**  
2 **EMPLOYMENT AND TRAINING**

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

8 **ON OCTOBER 6, 2020**, THE TEXAS WORKFORCE COMMISSION ADOPTED THE  
9 BELOW RULES WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS REGISTER*.

10  
11 Estimated date of publication in the *Texas Register*: **October 23, 2020**

12 The rules will take effect: **October 26, 2020**

13  
14 The Texas Workforce Commission (TWC) adopts amendments to the following sections of  
15 Chapter 813, relating to Supplemental Nutrition Assistance Program Employment and Training  
16 (SNAP E&T), *without* changes, as published in the July 24, 2020, issue of the *Texas Register* (45  
17 TexReg 5144):

18  
19 Subchapter B. Access to Employment and Training Activities and Support Services, §813.11  
20 and §813.14

21 Subchapter D. Allowable Activities, §§813.31 - 813.34  
22

23 TWC adopts amendments to the following section of Chapter 813, relating to Supplemental  
24 Nutrition Assistance Program Employment and Training (SNAP E&T), *with* changes, as  
25 published in the July 24, 2020, issue of the *Texas Register* (45 TexReg 5144):  
26

27 Subchapter B. Access to Employment and Training Activities and Support Services, §813.13  
28

29 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**  
30 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS**

31  
32 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**

33 The purpose of the Chapter 813 rule change is to comply with the Agriculture Improvement Act  
34 of 2018 and other federal requirements.  
35

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

37 (Note: Minor editorial changes are made that do not change the meaning of the rules and,  
38 therefore, are not discussed in the Explanation of Individual Provisions.)  
39

40 **SUBCHAPTER B. ACCESS TO EMPLOYMENT AND TRAINING ACTIVITIES AND**  
41 **SUPPORT SERVICES**

42 **TWC adopts the following amendments to Subchapter B:**  
43

44 **§813.11. Board Responsibilities Regarding Access to SNAP E&T Activities and Support**  
45 **Services**

1 Section 813.11 is amended to add clarification regarding Local Workforce Development Board  
2 (Board) responsibilities in monitoring SNAP E&T participation.

3  
4 **§813.13. Good Cause for Mandatory Work Registrants Who Participate in SNAP E&T**  
5 **Services**

6 Section 813.13 is amended to add clarification regarding actions that Boards must take when a  
7 mandatory work registrant fails to respond to an outreach notification or fails to participate in  
8 SNAP E&T activities.

9  
10 At adoption, §813.13(a) is amended to remove the proposed sentence, "A Board shall notify  
11 HHSC of a SNAP E&T participant's noncompliance within seven days of the noncompliance."  
12 The sentence is removed from §813.13(a) and the reference to the timeline for reporting  
13 noncompliance to HHSC is added to the associated guidance document.

14  
15 **§813.14. Special Provisions Regarding Sanctions for Noncooperation**

16 Section 813.14 is amended to revise the 120-hour monthly participation limitation to comply  
17 with 7 USC §2015(d)(4)(F)(ii).

18  
19 **SUBCHAPTER D. ALLOWABLE ACTIVITIES**

20 **TWC adopted the following amendments to Subchapter D:**

21  
22 **§813.31. Activities for Mandatory Work Registrants and Exempt Recipients Who**  
23 **Voluntarily Participate in SNAP E&T Services**

24 Section 813.31 is amended to update the activities that may be provided for SNAP E&T  
25 mandatory work registrants and exempt recipients who voluntarily participate in SNAP E&T  
26 services to comply with the requirements of the Agriculture Improvement Act of 2018.

27  
28 **§813.32. SNAP E&T Activities for ABAWDs**

29 Section 813.32 is amended to add, as an allowable SNAP E&T activity, employment and  
30 training programs for veterans operated by the US Department of Labor or the US Department of  
31 Veterans Affairs.

32  
33 **§813.33. Job Retention Activities**

34 Section 813.33 is amended to update Board requirements regarding the provision of job retention  
35 activities to comply with the requirements of the Agriculture Improvement Act of 2018 and  
36 offers flexibility to Boards regarding the job retention period.

37  
38 **§813.34. Job Retention Support Services**

39 Section 813.34 is amended to update Board requirements regarding the provision of job retention  
40 support services to comply with the requirements of the Agriculture Improvement Act of 2018  
41 and offers flexibility to Boards regarding the job retention period.

42  
43 **No comments were received.**

44  
45 TWC hereby certifies that the rules have been reviewed by legal counsel and found to be within  
46 TWC's authority to adopt.

1  
2 The rules are adopted under Texas Labor Code §301.0015 and §302.002(d), which provide TWC  
3 with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective  
4 administration of TWC services and activities.

5  
6 The adopted rules affect Texas Labor Code, Title 4, particularly Chapters 301 and 302, as well as  
7 Texas Government Code, Chapter 2308.

1                   **CHAPTER 813. SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM**  
2   **EMPLOYMENT AND TRAINING**

3  
4                   **SUBCHAPTER B. ACCESS TO EMPLOYMENT AND TRAINING ACTIVITIES AND**  
5   **SUPPORT SERVICES**

6  
7                   **§813.11. Board Responsibilities Regarding Access to SNAP E&T Activities and Support**  
8   **Services.**

- 9  
10                   (a) A Board shall ensure that allowable SNAP E&T activities and support services, as  
11   set forth in Subchapters D and E, respectively, of this chapter, are provided as  
12   specified in the annual state plan of operations approved by the United States  
13   Department of Agriculture (USDA), to individuals who are:  
14  
15   (1)   classified as the General Population; or  
16  
17   (2)   ABAWDs.  
18  
19                   (b) A Board shall ensure that the monitoring of SNAP E&T requirements and  
20   participant activities is ongoing and frequent, as determined appropriate by the  
21   Board, and consists of:  
22  
23   (1)   tracking and reporting SNAP E&T participation hours;  
24  
25   (2)   tracking and reporting support services hours;  
26  
27   (3)   determining and arranging for any intervention needed to assist the individual  
28   in complying with SNAP E&T service requirements;  
29  
30   (4)   monitoring and ensuring progress toward achieving the goals and objectives in  
31   the employment plan; and  
32  
33   (5)   monitoring all other requirements.  
34  
35                   (c) A Board shall ensure that all ABAWDs in full-service SNAP E&T counties are  
36   provided with an offer of a work activity within 10 calendar days from the date of  
37   referral from HHSC.  
38  
39                   (d) A Board shall ensure that HHSC is notified in a timely manner if a mandatory work  
40   registrant fails to comply with participant responsibilities, as set forth in §813.12 of  
41   this subchapter.  
42  
43                   (e) A Board shall ensure that employment and training activities are conducted in  
44   compliance with the Fair Labor Standards Act (FLSA) (29 USC §201 et seq.), as  
45   follows:  
46

- 1 (1) The amount of time per week that a mandatory work registrant or exempt  
2 recipient who voluntarily participates in SNAP E&T services may be required  
3 to participate in activities that are not exempt from minimum wage and  
4 overtime under the FLSA shall be determined by the SNAP benefits amount  
5 being divided by the minimum wage, so that the amount paid to the mandatory  
6 work registrant or exempt recipient who voluntarily participates in SNAP E&T  
7 services would be equal to or more than the amount required for payment of  
8 wages, including minimum wage and overtime.  
9
- 10 (2) If a Board provides activities that meet all the following criteria set forth in this  
11 paragraph, the activities are considered "training" under FLSA and minimum  
12 wage and overtime are not required, as follows:  
13
- 14 (A) The training is similar to that given in a vocational school.
  - 15
  - 16 (B) The training is for the benefit of the trainees.
  - 17
  - 18 (C) Trainees do not displace currently employed workers.
  - 19
  - 20 (D) Employers derive no immediate advantage from trainees' activities.
  - 21
  - 22 (E) Trainees are not entitled to a job after training is completed.
  - 23
  - 24 (F) Employers and trainees understand that trainees are not paid.
  - 25
- 26 (f) A Board shall ensure that placement in work-based services does not result in the  
27 displacement of currently employed workers or impair existing contracts for services  
28 or collective bargaining agreements.  
29

30 **§813.13. Good Cause for Mandatory Work Registrants Who Participate in SNAP E&T**  
31 **Services.**  
32

- 33 (a) Good cause applies only to mandatory work registrants who are required to  
34 participate in SNAP E&T services. A Board shall ensure that all good cause claims  
35 are forwarded to HHSC for determination before SNAP benefits are denied when  
36 mandatory work registrants state that they have a reason for failing to:  
37
- 38 (1) respond to the outreach notification; and
  - 39
  - 40 (2) participate in SNAP E&T activities.
  - 41
- 42 (b) For purposes of this chapter, the following are reasons a Board may consider when  
43 making a good cause recommendation to HHSC after a SNAP E&T participant fails  
44 to respond to outreach notifications or fails to participate in SNAP E&T activities:  
45
- 46 (1) Temporary illness or incapacitation

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46

- (2) Court appearance
- (3) Caring for a physically or mentally disabled household member who requires the recipient's presence in the home
- (4) No available transportation and the distance prohibits walking; or no available job within reasonable commuting distance, as defined by the Board
- (5) Distance from the home of the mandatory work registrant who participates in SNAP E&T services, to the Workforce Solutions Office, or employment service provider requires commuting time of more than two hours a day (not including taking a child to and from a child care facility), the distance prohibits walking, and there is no available transportation
- (6) Farmworkers who are away from their permanent residence or home base, who travel to work in an agriculture or related industry during part of the year, and are under contract or similar agreement with an employer to begin work within 30 days of the date that the individual notified the Board of his or her seasonal farmwork assignment
- (7) An inability to obtain needed child care, as defined by the Board and based on any of the following reasons:
  - (A) Informal child care by a relative or child care provided under other arrangements is unavailable or unsuitable, and based on, where applicable, Board policy regarding child care. Informal child care may also be determined unsuitable by the parent.
  - (B) Eligible formal child care providers, as defined in Chapter 809 of this title (relating to Child Care Services), are unavailable.
  - (C) Affordable formal child care arrangements within maximum rates established by the Board are unavailable.
  - (D) Formal or informal child care within a reasonable distance from home or the work site is unavailable
- (8) An absence of other support services necessary for participation
- (9) Receiving a job referral that results in an offer below the federal minimum wage, except when a lower wage is permissible under federal minimum wage law
- (10) An individual or family crisis or a family circumstance that may preclude participation, including substance abuse and mental health and disability -

1 related issues, provided that the mandatory work registrant who participates in  
2 SNAP E&T services engages in problem resolution through appropriate  
3 referrals for counseling and support services  
4

5 (11) An individual is a victim of family violence  
6

7 (c) A Board shall ensure that good cause is monitored at least on a monthly basis and  
8 results are shared with HHSC if there is a change in the circumstances surrounding  
9 the good cause exception.  
10

11 **§813.14. Special Provisions Regarding Sanctions for Noncooperation.**  
12

13 Mandatory work registrants who are scheduled to participate more than 120 hours per  
14 month may not be sanctioned for noncooperation after 120 hours have been reached, as  
15 described in the Food and Nutrition Act, 7 USC §2015(d)(4)(F)(ii). The 120 hours  
16 include hours in all SNAP E&T activities, including any hours worked for paid or unpaid  
17 compensation.  
18

19 **SUBCHAPTER D. ALLOWABLE ACTIVITIES**  
20

21 **§813.31. Activities for Mandatory Work Registrants and Exempt Recipients Who**  
22 **Voluntarily Participate in SNAP E&T Services.**  
23

24 The following activities may be provided for SNAP E&T mandatory work registrants and  
25 exempt recipients who voluntarily participate in SNAP E&T services, subject to the  
26 limitations specified in §813.32 of this subchapter:  
27

28 (1) Supervised job search services that shall:  
29

30 (A) incorporate job readiness, job search training, directed job search, and  
31 group job search, and may include the following:  
32

33 (i) Employability assessment  
34

35 (ii) Counseling  
36

37 (iii) Information on available jobs  
38

39 (iv) Occupational exploration, including information on local emerging  
40 and demand occupations  
41

42 (v) Interviewing skills and practice interviews  
43

44 (vi) Assistance with applications and résumés  
45

46 (vii) Job fairs

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46

- (viii) Life skills
- (ix) Guidance and motivation for development of positive work behaviors necessary for the labor market; and
- (B) limit the number of weeks a mandatory work registrant or exempt recipient who voluntarily participates in SNAP E&T services can spend as follows:
  - (i) ABAWDs shall not be enrolled for more than four weeks, and the job search activity shall be provided in conjunction with the workfare activity, as described in §813.32(a)(4)(D) of this subchapter.
  - (ii) General Population mandatory work registrants and exempt recipients who voluntarily participate in SNAP E&T services shall not be enrolled:
    - (I) for more than four weeks of consecutive activity under this paragraph;
    - (II) for more than six weeks of total activity in a federal fiscal year.
  - (iii) Job search, when offered as part of other SNAP E&T activities, is allowed for more time than the limitations set forth in clauses (i) and (ii) of this subparagraph if the job search activities comprise less than half of the required time spent in other activities.
- (2) Vocational training that shall:
  - (A) relate to the types of jobs available in the labor market;
  - (B) be consistent with employment goals identified in the employment plan, when possible; and
  - (C) be provided only if there is an expectation that employment will be secured upon completion of the training.
- (3) Nonvocational education that shall increase employability, such as:
  - (A) enrollment and satisfactory attendance in:
    - (i) a secondary school; or



- 1 (ii) a course of study leading to a high school diploma or a certificate of
- 2 general equivalence;
- 3
- 4 (B) basic skills and literacy;
- 5
- 6 (C) English proficiency; or
- 7
- 8 (D) postsecondary education, leading to a degree or certificate awarded by a
- 9 training facility, career school or college, or other educational institution
- 10 that prepares individuals for employment in current and emerging
- 11 occupations that do not require baccalaureate or advanced degrees;
- 12
- 13 (4) Work experience, as authorized by 7 USC §2015(d)(4)(B)(iv) and by 20 CFR
- 14 §663.200(b), for mandatory work registrants who need assistance in becoming
- 15 accustomed to basic work skills that shall:
- 16
- 17 (A) occur in the workplace for a limited period of time;
- 18
- 19 (B) be made in either the private for-profit, the nonprofit, or the public
- 20 sectors; and
- 21
- 22 (C) be paid or unpaid;
- 23
- 24 (5) Unsubsidized employment
- 25
- 26 (6) Other activities approved in the current SNAP E&T state plan of operations
- 27

28 **§813.32. SNAP E&T Activities for ABAWDs.**

- 29
- 30 (a) Boards shall ensure that SNAP E&T activities for ABAWDs are limited to
- 31 participating in the following:
- 32
- 33 (1) Services or activities under the Trade Act of 1974, as amended by the Trade
- 34 Act of 2002
- 35
- 36 (2) Activities under Workforce Innovation and Opportunity Act (29 USC §3111 et
- 37 seq.)
- 38
- 39 (3) Education and training, which may include:
- 40
- 41 (A) vocational training as described in §813.31(2) of this subchapter; or
- 42
- 43 (B) nonvocational education as described in §813.31(3) of this subchapter;
- 44 and
- 45
- 46 (4) Workfare activities that shall:

- (A) be designed to improve the employability of ABAWDs through actual employment experience or training, or both;
- (B) be unpaid job assignments based in the public or private nonprofit sectors;
- (C) have hourly requirements based on the ABAWD's monthly household SNAP allotment divided by the number of ABAWDs in the SNAP household, as provided by HHSC and then divided by the federal minimum wage; and
- (D) include a four-week job search period before placement in a workfare activity.

(b) Boards shall ensure that ABAWDs who are referred to a Workforce Solutions Office and subsequently become engaged in unsubsidized employment for at least 20 hours per week are not required to continue participation in SNAP E&T services because they have fulfilled their work requirement, as described in 7 USC §2015(o)(2)(A). Additionally, Boards shall ensure that HHSC is notified when ABAWDs obtain employment.

(c) An employment and training program for veterans operated by the US Department of Labor or the US Department of Veterans Affairs, as tracked by HHSC, is an allowable SNAP E&T activity for ABAWDs.

**§813.33. Job Retention Activities.**

(a) Boards shall offer job retention activities:

- (1) similar to the SNAP E&T activities described in §813.31(1) - (3) of this subchapter, and as specified in the annual SNAP E&T state plan of operations and any subsequent amendments approved by USDA;
- (2) for a minimum of 30 days and not more than 90 days to SNAP recipients who participated in SNAP E&T activities and obtained full-time employment; and
- (3) in full-service or minimum-service counties as funding permits and as specified in paragraphs (1) and (2) of this subsection.

(b) Boards shall ensure that SNAP eligibility is verified each month that job retention activities are provided.

**§813.34. Job Retention Support Services.**

1 Boards shall offer job retention support services for a minimum of 30 days and not more  
2 than 90 days to assist:

- 3
- 4 (1) mandatory work registrants who obtain part-time employment while  
5 participating, or after successfully participating, in SNAP E&T activities; and  
6
  - 7 (2) exempt recipients who participated in SNAP E&T activities and obtained full-  
8 time employment.