

1 **CHAPTER 837. APPRENTICESHIP TRAINING PROGRAM**

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

7 ON **APRIL 3, 2018**, THE TEXAS WORKFORCE COMMISSION ADOPTED THE BELOW
8 RULES WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS REGISTER*.

9 Estimated date of publication in the *Texas Register*: **April 20, 2018**

10 The rules will take effect: **April 23, 2018**

11 The Texas Workforce Commission (TWC) adopts amendments to the following sections of
12 Chapter 837, relating to the Apprenticeship Training Program, without changes, as published in
13 the February 2, 2018, issue of the *Texas Register* (43 TexReg 565):
14

- 15 Subchapter A. General Purpose and Definitions, §837.2
- 16 Subchapter B. Funding, §837.22, §837.23, §837.24, §837.26, and §837.27
- 17 Subchapter C. Compliance Monitoring, §837.41

- 18
- 19 PART I. PURPOSE, BACKGROUND, AND AUTHORITY
- 20 PART II. EXPLANATION OF INDIVIDUAL PROVISIONS

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

23 The purpose of the adopted Chapter 837 rule changes is to align Chapter 837 of TWC's rules
24 with the amendments to Chapter 133 of the Texas Education Code (Chapter 133) enacted by
25 House Bill (HB) 2790, 85th Texas Legislature, Regular Session (2017), relating to funding for
26 certain apprenticeship training programs.
27

28 HB 2790 expanded the list of eligible applicants to include sponsors that apply through an
29 apprenticeship committee. Before the enactment of HB 2790, grant funds were appropriated to
30 local education agencies, which acted as fiscal agents for registered apprenticeship training
31 programs. With the passage of HB 2790, a registered apprenticeship training program's
32 apprenticeship committee may now apply for Chapter 133 funding directly, without partnering
33 with a public school district or a state postsecondary institution.
34

35 The changes made to Chapter 133 by HB 2790 directly impact funding distributed pursuant to
36 TWC's Apprenticeship Training Program rules. HB 2790 took effect September 1, 2017. The
37 next funding cycle for Chapter 133 begins in June 2018. TWC intends to adopt the rule revisions
38 necessitated by HB 2790 amendments to Chapter 133 for the next funding cycle.
39

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

41 (Note: Minor editorial changes are made that do not change the meaning of the rules and,
42 therefore, are not discussed in the Explanation of Individual Provisions.)
43

1 **Comment:** One commenter stated that members in his area of the state have no
2 understanding of Chapter 133 funding to apprenticeship programs. However, members
3 do understand the meaning of 15 percent more funding to the program. The
4 commenter expressed concern that many industry partners do not have enough
5 knowledge of the rules and regulations to properly operate without the assistance of a
6 local education agency (LEA).

7
8 **Response:** TWC's three-member Commission (Commission) agrees. The enactment of
9 HB 2790, 85th Texas Legislature, Regular Session (2017), effective as of September
10 1, 2017, amends Chapter 133 of the Texas Education Code, relating to funding for
11 certain apprenticeship training programs, and necessitates amendments to Chapter 837
12 in order to align TWC's rules and implement HB 2790. As stated in the preamble
13 discussion of §837.2, grant recipients will be required to comply with TWC
14 monitoring activities as set forth in TWC Chapter 802 rules, Subchapter D, Agency
15 Monitoring Activities. Grant recipients will be provided extensive technical assistance
16 to ensure that adequate fiscal processes and documentation practices can be put in
17 place by the apprenticeship committee for auditing and monitoring purposes.
18 Additionally, TWC will provide an updated administrator's guide for use by all eligible
19 applicants, including members of a Chapter 133 apprenticeship committee. Finally,
20 TWC will be developing a webinar, scheduling conference calls, and, if necessary,
21 conducting on-site visits to provide technical assistance to interested apprenticeship
22 committees to ensure a successful application and contracting process.

23
24 **Comment:** One commenter expressed concerns for apprenticeship committees that
25 choose to access Chapter 133 funding without an LEA. The commenter identified
26 many of the requirements of an LEA that must be completed by the apprenticeship
27 committee and the consequences for failing to complete all the requirements, such as a
28 partial or total loss of funding.

29
30 The commenter provided an example regarding the application and planning estimates
31 submission being required by a certain date each funding year. The commenter stated
32 that if the yearly deadline for submission of the planning estimate forms is not met,
33 then the programs that miss the deadline will be excluded from funding for that entire
34 year.

35
36 **Response:** The Commission agrees that eligible apprenticeship committees applying
37 directly for Chapter 133 funding would be subject to all compliance requirements
38 applied to LEAs in previous years. The same practices of notifying LEAs of funding
39 availability and submission deadlines would be applied to eligible apprenticeship
40 committees through continued technical assistance. If a grant recipient misses the
41 prescribed deadline for submitting planning estimates, the grant recipient's apprentices
42 and related classroom hours will not be included in the development of the contact
43 hour rate, resulting in no funding.

44
45 **Comment:** One commenter expressed concern about TWC's cost to implement this
46 rule. The commenter mentions that, currently, multiple programs partner under one

1 LEA and one contract. If the multiple programs apply on their own, as this rule will
2 allow, the number of contracts may increase, creating the need for additional TWC
3 oversight, which in turn could cause an increase in TWC staffing needs. The additional
4 costs could affect TWC's administrative costs and ultimately affect the funding
5 available to existing LEAs and the anticipated new program's apprenticeship
6 committees.
7

8 **Response:** The Commission agrees that the possibility of increased interest for
9 Chapter 133 funding exists, thus causing an increased number of contracts. If TWC's
10 operating responsibilities increase as a result, then the Commission will evaluate
11 staffing needs and make adjustments as necessary. While an increase in TWC
12 operational responsibilities might affect the funding available to eligible applicants
13 and their contracts, the Commission will ensure that, where possible, costs are
14 absorbed by TWC and that the highest level of Chapter 133 funding is made available
15 to the greatest extent possible.
16

17 **Comment:** One commenter expressed concern that the changes made by HB 2790 will result in
18 more grant recipients, which in turn will require TWC to process a larger volume of payments.
19

20 **Response:** Grant recipients will use the same automated cash draw system that TWC's other
21 grant recipients use to request payment under TWC grant awards. The system was designed to
22 accommodate a large volume of payment requests. The potential increase in the number of grant
23 recipients that may result from implementation of HB 2790 is within the system's capacity. TWC
24 provides grant recipients with instructions for system access through the grant terms and TWC
25 issuances.
26

27 **SUBCHAPTER A. GENERAL PURPOSE AND DEFINITIONS**

28 TWC adopts the following amendments to Subchapter A:
29

30 **§837.2. Definitions**

31 Section 837.2(3) is amended to clarify that each registered apprenticeship program operates
32 independently, under its own registration number issued by the US Department of Labor's (DOL)
33 Office of Apprenticeship.
34

35 Section 837.2(4) is amended to clarify that apprenticeship training programs may prepare
36 individuals for occupations other than skilled trades and crafts.
37

38 Section 837.2(6) is amended to replace the term "local education agencies" with the term "grant
39 recipients."
40

41 New §837.2(7) adds a definition for "grant recipient" to include the apprenticeship committee
42 and local education agency as eligible applicants. Additionally, the definition explains that grant
43 recipients will be required to comply with TWC monitoring activities as set forth in Chapter 802,
44 Subchapter D, Agency Monitoring Activities.
45

1 New §837.2(8) retains the definition for "local education agency" and is renumbered
2 accordingly.

3
4 **SUBCHAPTER B. FUNDING**

5 TWC adopts the following amendments to Subchapter B:

6
7 **§837.22. Eligible Applicants**

8 Section 837.22(a) and (b) are amended to replace "local education agencies" with "grant
9 recipients."

10
11 Section 837.22(b)(2), no longer applicable, is removed.

12
13 Section 837.22(b)(3) is renumbered as new §837.22(b)(2) and amended to remove
14 "apprenticeship committee" and change "program(s)" to "program."

15
16 New §837.22(c) adds the provision that local education agencies that fund job-related classroom
17 instruction for a registered apprenticeship training program shall contract with the local,
18 independently operated apprenticeship committee.

19
20 New §837.22(d) adds "apprenticeship committees that fund job-related classroom instruction for
21 a registered apprenticeship training program shall contract directly with the Agency."

22
23 **§837.23. Local Workforce Development Board Review**

24 Section 837.23 is amended to replace "local education agency" with "grant recipient."

25
26 **§837.24. Funding Qualifications for Apprenticeship Training Programs**

27 Section 837.24 is amended and is now divided into four new subsections.

28
29 New §837.24(a) sets forth the types of apprenticeship training programs that may qualify for
30 funding by adding new paragraph (1), "conducted by an independently operated apprenticeship
31 committee; or." HB 2790 sets forth that a registered apprenticeship training program's
32 apprenticeship committee may be an eligible recipient for Chapter 133 funding without
33 partnering with a public school district or a state postsecondary institution. Additionally,
34 paragraph (2) retains language from the existing rule regarding apprenticeship training programs
35 sponsored by a local education agency.

36
37 Existing paragraph (2) is amended to add "The apprenticeship training program must," and
38 relettered as new §837.24(b).

39
40 New §837.24(c) adds "Each apprenticeship training program must," and renumbers existing
41 paragraph (3) as new §837.24(c)(1). Additionally, new §837.24(c)(2) adds the requirement that
42 apprenticeship training programs must "adhere to apprenticeship committee procedures for
43 maintaining individual program standards as approved by DOL's Office of Apprenticeship."

44
45 Existing paragraph (4) is amended to add "A funded apprenticeship training program must" and
46 is relettered as new §837.24(d).

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§837.26. Funding Distribution Process

Sections 837.26(a), (b), and (c) are amended to replace "local education agencies" with "grant recipients."

§837.27. Administrative Costs Limitation

Section 837.27 is amended to replace "local education agencies" with "grant recipients."

SUBCHAPTER C. COMPLIANCE MONITORING

TWC adopts the following amendments to Subchapter C:

§837.41. Funds Management and Accountability

Section 837.41 is amended to replace "local education agencies" with "grant recipients."

COMMENTS WERE RECEIVED FROM:

Danny Prosperie, Training Director, Beaumont Electrical J.A.T.C.

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

The rules are adopted under Texas Education Code §133.007, which provides TWC with the authority to adopt, amend, or repeal such rules as it deems necessary to implement Chapter 133 of the Texas Education Code

The adopted rules affect Texas Education Code, Chapter 133.

1
2 **CHAPTER 837. APPRENTICESHIP TRAINING PROGRAM**

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4 **SUBCHAPTER A. GENERAL PURPOSE AND DEFINITIONS**

5
6 **§837.2. Definitions.**

7
8 In addition to the definitions contained in §800.2 of this title, and the definitions
9 contained in Texas Education Code, §133.001 and 29 C.F.R. §29.2 relating to
10 apprenticeship training, the following words and terms when used in this chapter shall
11 have the following meanings, unless the context clearly indicates otherwise.

- 12
- 13 (1) Administrator's Guide--The Administrator's Guide supplements this chapter by
14 providing all required operational details and procedures for planning and
15 submitting an application for apprenticeship training program funding, as well
16 as the annual timeline for submission. The Administrator's Guide may be
17 accessed on the Agency's website at www.texasworkforce.org.
 - 18
 - 19 (2) Apprentice--A full-time paid worker, at least 16 years of age except where a
20 higher minimum age standard is otherwise fixed by law, who is employed in
21 the private sector, registered with the US Department of Labor (DOL) Office
22 of Apprenticeship, and receives related instruction training to learn a skill in a
23 certified apprenticeable occupation.
 - 24
 - 25 (3) Apprenticeship committee--An autonomous local group consisting of members
26 appointed by one or more employers of apprentices, or by one or more
27 bargaining agents representing members of an apprenticeable trade, or by a
28 combination of the two. An apprenticeship committee, approved by the DOL
29 Office of Apprenticeship, operates independently as a designated sponsor for
30 an apprenticeship training program to establish instruction standards and goals
31 for a particular craft or crafts, interview and select applicants, and monitor the
32 program and apprentices as described in Texas Education Code §133.003.
33
 - 34 (4) Apprenticeship training program--A training program that provides on-the-job
35 training, preparatory instruction, supplementary instruction, or related
36 instruction in a trade that has been certified as an apprenticeable occupation by
37 the DOL Office of Apprenticeship. As required by Texas Education Code
38 §133.002(c), an apprenticeship training program shall be under the direction of
39 an apprenticeship committee. The program is a structured system of training
40 designed to prepare individuals for occupations, including but not limited to
41 those in skilled trades and crafts, by combining training under the supervision
42 of an experienced journey worker with job-related classroom instruction.
 - 43
 - 44 (5) Office of Apprenticeship--The DOL Office of Apprenticeship.
 - 45

- 1 (6) Contact-hour rate--A method used to distribute apprenticeship training funds to
2 grant recipients. The total available funds are divided by the statewide total
3 number of contact hours of apprenticeship training instruction classes
4 submitted to the Agency.
5
- 6 (7) Grant recipient--A recipient of the state-funded Apprenticeship Training
7 Program that is an apprenticeship committee or a local education agency.
8 Grant recipients must cooperate and comply with Agency monitoring
9 activities as required by Chapter 802, Subchapter D, of this title (relating to
10 Agency Monitoring Activities).
11
- 12 (8) Local education agency--For purposes of Chapter 837, a public school district or
13 state postsecondary institution, under Texas Education Code, Chapter 133, that
14 serves as a sponsor for an apprenticeship training program pursuant to a
15 contract between the local education agency and an apprenticeship committee.
16

17 **SUBCHAPTER B. FUNDING**

18 **§837.22. Eligible Applicants.**

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- 20
- 21 (a) Grant recipients are the entities eligible to apply to the Agency for apprenticeship
22 training funding.
23
- 24 (b) Approved grant recipients shall:
25
- 26 (1) be the fiscal agents for the funds and are subject to the audit procedures set
27 forth in Texas Education Code §133.005;
28
- 29 (2) apply for funds for each apprenticeship training program, specifically for
30 related classroom training, supplementary instruction, or preparatory
31 instruction from only one of the following entities:
32
- 33 (A) the Commission; or
34
- 35 (B) the Texas Higher Education Coordinating Board.
36
- 37 (c) Local education agencies that fund job-related classroom instruction for a
38 registered apprenticeship training program shall contract with the local,
39 independently operated apprenticeship committee.
40
- 41 (d) Apprenticeship committees that fund job-related classroom instruction for a
42 registered apprenticeship training program shall contract directly with the Agency.

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3 **§837.23. Local Workforce Development Board Review.**
4

5 The grant recipient shall provide one copy of the application for apprenticeship training
6 program funding to the Local Workforce Development Board (Board) for review and
7 comment and one copy to the Agency. Boards may submit comments to the Agency and
8 the grant recipient concurrently.
9

10 **§837.24. Funding Qualifications for Apprenticeship Training Programs.**
11

12 (a) To qualify for funding, each apprenticeship training program shall be:

- 13
14 (1) conducted by an independently operated apprenticeship committee; or
15
16 (2) sponsored by a local education agency pursuant to a contract between the local
17 education agency and an apprenticeship committee.
18

19 (b) The apprenticeship training program must be certified and registered by the US
20 Department of Labor (DOL) Office of Apprenticeship prior to the applicable fiscal
21 year.
22

23 (c) Each apprenticeship training program shall:

- 24
25 (1) provide the local education agency with a validated copy of its written,
26 national standards as approved by the DOL Office of Apprenticeship (or where
27 national standards do not exist, individual program standards approved by the
28 DOL Office of Apprenticeship); or
29
30 (2) adhere to apprenticeship committee procedures for maintaining individual
31 program standards as approved by the DOL Office of Apprenticeship.
32

33 (d) A funded apprenticeship training program must comply with Commission rules and
34 Texas Education Code, Chapter 133.
35

36 **§837.26. Funding Distribution Process.**
37

38 (a) Funds are distributed to the eligible grant recipients by the Commission in a two-step
39 process consisting of planning estimates and final distributions. Details of the annual
40 distribution process, including the timeline, are set forth in the Administrator's Guide
41 located on the Agency's website at www.texasworkforce.org.
42

43 (b) Planning Estimates.

- 44
45 (1) Each grant recipient shall report to the Agency the number of approved class
46 hours, estimated number of registered apprentices, and estimated number of

1 contact hours of job-related instruction classes for the prospective fiscal year.
2 The estimated contact hours are determined by the number of registered
3 apprentices anticipated to enroll in a class, multiplied by the number of
4 approved hours that the class will be conducted during the year.
5

6 (2) The estimated number of contact hours must be submitted by the grant
7 recipient and received by the Agency on or before the respective due dates as
8 annually prescribed by the Agency.
9

10 (3) The Agency, after determining the preliminary contact-hour rate, shall notify
11 each grant recipient of its planning estimates for the prospective fiscal year.
12

13 (c) Final Distributions.
14

15 (1) Each grant recipient shall report to the Agency the number of approved class
16 hours, number of registered apprentices, and number of contact hours of job-
17 related instruction classes for the fiscal year.
18

19 (2) The approved number of contact hours must be submitted by the grant
20 recipient and received by the Agency on or before the respective due dates as
21 annually prescribed by the Agency.
22

23 (3) The Agency, after determining the final contact-hour rate, shall notify each
24 grant recipient of its final distribution based on the final contact-hour rate.
25

26 **§837.27. Administrative Costs Limitation.**
27

28 Costs that are allowable, necessary, and reasonably incurred by a grant recipient to
29 properly administer and manage the funds, such as salaries for grant recipient
30 supervisors and administrative supplies, are considered administrative costs.
31 Administrative costs may not exceed 15 percent of the total contract.
32

33 **SUBCHAPTER C. COMPLIANCE MONITORING**
34

35 **§837.41. Funds Management and Accountability.**
36

37 Grant recipients shall comply with the applicable rules in Chapter 802 of this title,
38 relating to the Integrity of the Texas Workforce System, specifically:
39

40 (1) Subchapter D, relating to Agency Monitoring Activities;
41

42 (2) Subchapter F, relating to Performance and Accountability;
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44 (3) Subchapter G, relating to Corrective Actions; and

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(4) Subchapter H, relating to Remedies.