

1 **CHAPTER 850. VOCATIONAL REHABILITATION SERVICES ADMINISTRATIVE**
2 **RULES AND PROCEDURES**

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

8
9 **ON DECEMBER 6, 2022**, THE TEXAS WORKFORCE COMMISSION ADOPTED THE
10 RULES BELOW WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS REGISTER*.

11
12 Publication Date of the Adoption in the *Texas Register*: **December 23, 2022**
13 The Rules are Effective: **December 26, 2022**

14
15 The Texas Workforce Commission (TWC) adopts amendments to the following sections of
16 Chapter 850, relating to Vocational Rehabilitation Services Administrative Rules and
17 Procedures:

- 18
19 Subchapter A. Vocational Rehabilitation General Rules, §§850.3 - 850.5 and §850.11
20 Subchapter C. Councils, Board, and Committees, §§850.33 - 850.35
21 Subchapter E. Vocational Rehabilitation Services Appeals and Hearing Procedures,
22 §§850.60 - 850.62, 850.69, 850.82, and 850.84
23

24 TWC adopts the following new section to Chapter 850, relating to Vocational Rehabilitation
25 Services Administrative Rules and Procedures:

- 26
27 Subchapter A. Vocational Rehabilitation General Rules, §850.7
28

29 TWC adopts the repeal of the following section of Chapter 850, relating to Vocational
30 Rehabilitation Services Administrative Rules and Procedures:

- 31
32 Subchapter C. Councils, Board, and Committees, §850.32
33

34 The amendments to §§850.3 - 850.5, 850.11, 850.33 - 850.35, 850.60 - 850.62, 850.69, and
35 850.82; new §850.7; and the repeal of §850.32 are adopted *without changes*, to the proposal as
36 published in the September 2, 2022, issue of the *Texas Register* (47 TexReg 5307), and,
37 therefore, the adopted rule text will not be published. The amendment to §850.84 is adopted *with*
38 *changes* to the proposed text and the adopted rule text will be published.
39

40 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**

41 Senate Bill (SB) 208, 84th Texas Legislature, Regular Session (2015), added Texas Labor Code,
42 §351.002, which transferred the administration of vocational rehabilitation (VR) services from
43 the Texas Department of Assistive and Rehabilitative Services (DARS) to TWC effective
44 September 1, 2016. The administrative rules relating to the VR Services Program were
45 transferred from DARS to TWC and codified under 40 TAC Chapter 850. On May 13, 2019,

1 TWC amended Chapter 850 to align the chapter with TWC's operation of the VR Services
2 Program.

3
4 The amendments to Chapter 850 are adopted to address stakeholder comments, clarify existing
5 rules, and improve program service delivery, consistency, and efficiency.

6
7 Texas Government Code, §2001.039 requires that every four years each state agency review and
8 consider for re adoption, revision, or repeal each rule adopted by that agency. TWC reviewed the
9 rules in Chapter 850 and determined that the rules are needed, reflect current legal and policy
10 considerations, and reflect current TWC procedures. The reasons for initially adopting the rules
11 continue to exist and any changes to the rules are described in Part II of this preamble.

12 13 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS**

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

16 17 **SUBCHAPTER A. VOCATIONAL REHABILITATION GENERAL RULES**

18 TWC adopts the following amendments to Subchapter A:

19 20 **§850.3. Definitions**

21 Section 850.3 is amended to add the definition for "Agency" and to revise the term from
22 "counselor" to "vocational rehabilitation counselor" for clarification. Throughout Chapter 850,
23 the term "counselor" has been updated to "vocational rehabilitation counselor" or "VR
24 counselor."

25 26 **§850.4. Opportunities for Citizen Participation**

27 Section 850.4 is amended to clarify information regarding open meetings and add a reference to
28 40 TAC Chapter 800, Subchapter G, relating to Petition for Adoption of Rules.

29 30 **§850.5. Complaints**

31 Section 850.5 is amended to expand the methods for filing complaints.

32 33 **§850.7. Monitoring and Oversight of Vocational Rehabilitation Counselor Performance 34 and Decision Making.**

35 New §850.7 is added to establish an administrative rule for the monitoring and oversight of VR
36 counselor performance and decision making in accordance with Texas Labor Code, §352.104,
37 Training and Supervision of Counselors.

38 39 **§850.11. Qualified Vocational Rehabilitation Counselor**

40 Section 850.11 is amended to include Vocational Rehabilitation Division acronym "VRD" in the
41 references to "management" and in place of "division" for clarity.

42
43 Section 850.11(f) is amended to clarify that reimbursement is allowed for one GRE exam.

44 45 **SUBCHAPTER C. COUNCILS, BOARD, AND COMMITTEES**

46 TWC adopts the following amendments to Subchapter C:

1
2 **§850.32. Definitions**

3 Section 850.32 is repealed because the section is no longer needed. The definition for "Agency"
4 and acronym "RCT" are defined elsewhere in Chapter 850.

5
6 **SUBCHAPTER E. VOCATIONAL REHABILITATION SERVICES APPEALS AND**
7 **HEARING PROCEDURES**

8 TWC adopts the following amendments to Subchapter E:
9

10 **§850.60. Scope**

11 Section 850.60 is amended to remove references to the Business Enterprises of Texas (BET)
12 program because the program is addressed in 40 TAC Chapter 854; remove Comprehensive
13 Rehabilitative Services (CRS) from the scope of services because CRS falls under Texas Health
14 and Human Services Commission oversight; and add a reference to the Client Assistance
15 Program (CAP).
16

17 **§850.61. Definitions**

18 Section 850.61 is amended to remove the definitions of "counselor" and "State Plan" because the
19 terms are defined in §850.3.
20

21 **§850.62. Filing a Request for Review**

22 Section 850.62 is amended to state that the request for a review shall be filed within 180 calendar
23 days from the date of the determination and that the CAP can assist and advocate for customers
24 during an appeal and informal dispute resolution.
25

26 **§850.69. Reasonable Accommodations**

27 Section 850.69 is amended to clarify that TWC shall bear the costs related to providing
28 reasonable accommodations for hearings or proceedings conducted.
29

30 **§850.82. Documentary Evidence and Official Notice**

31 Section 850.82 is amended to remove the reference to 34 Code of Federal Regulations (CFR)
32 Part 395 as BET appeals are addressed in 40 TAC Chapter 854.
33

34 **§850.84. Impartial Hearing Officer Decision**

35 Section 850.84(b) is not amended as proposed. At adoption, §850.84(b) is removed to avoid
36 confusion with federal criteria relating to a timely hearing decision. Subsequent subsections are
37 relettered accordingly.
38

39 Rellettered §850.84(c) is amended to remove the references to Texas Labor Code, Chapter 355
40 and 34 CFR Part 395 as BET appeals are addressed in 40 TAC Chapter 854.
41

42 **PART III. PUBLIC COMMENTS**

43 The public comment period closed on October 3, 2022. TWC received comments from Disability Rights
44 Texas (DRTx) and one individual.
45

46 **General Comment**

1
2 **COMMENT:** An individual commented in support of the proposed rule amendments.

3
4 **RESPONSE:** The Commission appreciates the support.

5
6 **§850.84. Impartial Hearing Officer Decision**

7
8 **COMMENT:** DRTx recommended that §850.84(b) be revised to align with the federal
9 criteria for a timely hearing decision.

10
11 **RESPONSE:** At adoption, the Commission removed §850.84(b) to avoid confusion with
12 the federal criteria for a timely hearing decision.

13
14 **PART IV. STATUTORY AUTHORITY**

15 The rules are adopted under Texas Labor Code, Chapter 352 and Texas Human Resources Code,
16 Chapter 111, which provide TWC with the authority to adopt, amend, or repeal such rules as it
17 deems necessary for the effective administration of vocational rehabilitation services.

18
19 The adopted rules affect Texas Human Resources Code, Chapter 111 and Texas Labor Code,
20 Chapter 352.

1 **CHAPTER 850. VOCATIONAL REHABILITATION SERVICES ADMINISTRATIVE**
2 **RULES AND PROCEDURES**

3
4 **SUBCHAPTER A. VOCATIONAL REHABILITATION GENERAL RULES**

5
6 **§850.3. Definitions.**

7
8 The following words and terms, when used in this chapter, have the following meanings,
9 unless the context clearly indicates otherwise:

- 10
11 (1) Agency--The unit of state government established under Texas Labor Code,
12 Chapter 301, that is presided over by the Commission and administered by the
13 executive director to operate the integrated workforce development system and
14 administer the unemployment compensation insurance program in the State of
15 Texas. The definition of "Agency" shall apply to all uses of the term in this
16 chapter.
17
18 (2) State Plan--The plan for vocational rehabilitation services submitted by the
19 Vocational Rehabilitation Division in compliance with Title I of the
20 Rehabilitation Act of 1973, as amended.
21
22 (3) Vocational rehabilitation counselor--An Agency employee who is trained to
23 provide vocational guidance and counseling and meets the minimum
24 qualifications designated in a functional job description.
25

26 **§850.4. Opportunities for Citizen Participation.**

27
28 In addition to other procedures listed in Part 2 of this title (relating to Department of
29 Assistive and Rehabilitative Services), individuals with disabilities, parents of infants and
30 toddlers with disabilities, and other citizens have the opportunity to:

- 31
32 (1) voice concerns through public representation on Agency committees, councils,
33 and boards;
34
35 (2) attend and make public comments at open meetings (notices of all open
36 meetings and agenda items are published in accordance with the Texas Open
37 Meetings Act);
38
39 (3) comment on all proposed rules; and
40
41 (4) submit a petition requesting the adoption of rules pursuant to Chapter 800,
42 Subchapter G of this title (relating to Petition for Adoption of Rules).
43

44 **§850.5. Complaints.**

- 45 (a) Complaints may be filed with the Agency either through mail, email, phone,
46

1 facsimile, or by videotape for individuals who use sign language to communicate.
2 Complaints should be directed to the customer's local vocational rehabilitation office
3 or may be submitted to the Agency's Customer Relations staff as indicated on the
4 Agency's website.
5

6 (b) For the purpose of directing complaints to the Agency, the Agency may notify
7 customers and service recipients of its name, mailing address, and telephone number
8 by including the information:
9

10 (1) on each registration form, application, or written contract relating to
11 participation in a program that is funded in any part by money derived from or
12 through the Agency;
13

14 (2) on a sign that is prominently displayed in the place of business of each
15 individual or entity engaging in a program that is funded in any part by money
16 derived from or through the Agency;
17

18 (3) in a bill for service provided by an individual or entity engaging in a program
19 that is funded in any part by money derived from or through the Agency; or
20

21 (4) in other media for dissemination of information as determined by the Agency.
22

23 (c) Ordinarily, the Agency resolves complaints within 60 days.
24

25 **§850.7. Monitoring and Oversight of Vocational Rehabilitation Counselor Performance**
26 **and Decision Making.**
27

28 (a) The Vocational Rehabilitation Division will provide specific guidance to vocational
29 rehabilitation (VR) counselors as required by Texas Labor Code, §352.104.
30

31 (b) VR counselor supervisors shall ensure that VR counselors complete all required and
32 necessary training.
33

34 (c) VR counselor supervisors shall monitor VR counselor performance through case
35 reviews, offer required training, and use other tools, as appropriate, to provide
36 guidance and enhance VR counselor performance and decision making.
37

38 **§850.11. Qualified Vocational Rehabilitation Counselor.**
39

40 (a) The Vocational Rehabilitation Division (VRD) helps vocational rehabilitation (VR)
41 counselors to meet the Comprehensive System of Personnel Development (CSPD)
42 standard, as set forth in 34 Code of Federal Regulations §361.18, by making funds
43 available through the Qualified Vocational Rehabilitation Counselor (QVRC)
44 program for the required graduate education except when:
45

46 (1) unforeseen circumstances occur that may restrict or prohibit the funding; or

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- (2) VRD management discontinues a VR counselor's participation in the program in the best interests of VRD.
- (b) The VRD director or designee must approve QVRC financial assistance. This financial assistance is contingent on:
 - (1) funding;
 - (2) VRD management approval; and
 - (3) compliance with qualifications for participation.
- (c) Qualifications for participation in the QVRC program require that VR counselors and transition VR counselors applying for assistance must:
 - (1) have completed the initial training year;
 - (2) be meeting or exceeding job performance expectations;
 - (3) obtain the appropriate approvals to pursue a graduate degree or prescribed coursework;
 - (4) apply for Rehabilitation Services Administration scholarship and university stipend funding, if applicable; and
 - (5) be accepted by the appropriate institution of higher education.
- (d) A VR counselor who meets the CSPD standard is considered a QVRC.
- (e) A VR counselor is expected to meet the CSPD standard within seven years from completion of the initial training year. VRD must conduct transcript reviews and/or confirm certifications to determine compliance with standards or to outline coursework to be completed by the VR counselor.
- (f) A VR counselor is expected to pay all costs or expenses:
 - (1) associated with the college application, admission, and GRE exam (reimbursement of one GRE exam is allowed);
 - (2) related to tuition, fees, and books for any coursework that must be repeated because of failure to successfully complete; and
 - (3) related to completing work necessary to remove any grade of "I" (Incomplete) within three months, unless there are valid reasons (for example, serious illness, or university regulations to the contrary).

1
2 **SUBCHAPTER C. COUNCILS, BOARD, AND COMMITTEES**

3
4 **§850.33. Tasks.**

5
6 The Rehabilitation Council of Texas (RCT) shall:

- 7
8 (1) review, analyze, and advise the Vocational Rehabilitation Division (VRD)
9 about its performance of responsibilities, particularly those relating to:
10
11 (A) eligibility determination (including order of selection);
12
13 (B) the extent, scope, and effectiveness of services provided; and
14
15 (C) functions performed by VRD that potentially affect the ability of
16 individuals with disabilities to achieve rehabilitation goals and
17 objectives;
18
19 (2) advise VRD and, at its discretion, help prepare the State Plan for Vocational
20 Rehabilitation Services; amendments to the plan; and applications, reports,
21 needs assessments, and evaluations required;
22
23 (3) to the extent feasible, review and analyze the effectiveness of, and customer
24 satisfaction with:
25
26 (A) the functions performed by state agencies and other public and private
27 entities responsible for performing functions for individuals with
28 disabilities; and
29
30 (B) vocational rehabilitation services:
31
32 (i) provided, or paid for from funds made available, under 29 United
33 States Code (USC) §725, or through other public or private sources;
34 and
35
36 (ii) provided by state agencies and other public and private entities
37 responsible for providing vocational rehabilitation services to
38 individuals with disabilities; and
39
40 (C) the employment outcomes achieved by individuals who receive services
41 under 29 USC §725, including the availability of health and other
42 employment benefits in connection with those employment outcomes;
43
44 (4) coordinate with other councils in the state, including the State Independent
45 Living Council established under 29 USC §796d; the advisory panel
46 established under the Individuals with Disabilities Education Act, 20 USC

1 §1412(a)(21); the State Council on Developmental Disabilities described in 42
2 USC §15025; the State Mental Health Planning Council established under 42
3 USC §300x-3(a); and the state workforce investment board;

4
5 (5) advise VRD and coordinate working relationships between VRD and the State
6 Independent Living Council and centers for independent living within the
7 state; and

8
9 (6) perform other comparable functions consistent with the Rehabilitation Act of
10 1973, as amended, that the RCT determines to be appropriate.

11
12 **§850.34. Reports.**

13
14 The Rehabilitation Council of Texas shall:

15
16 (1) prepare and submit an annual report to the governor or appropriate state entity
17 and the Commission on the status of vocational rehabilitation programs
18 operated within the state, and make the report available to the public; and

19
20 (2) submit to the commissioner of the Rehabilitation Services Administration,
21 United States Department of Education, periodic reports that the commissioner
22 may reasonably request, and keep records that the commissioner finds
23 necessary to verify those reports.

24
25 **§850.35. Funding.**

26
27 The Rehabilitation Council of Texas is funded primarily by federal funds, and its
28 existence is required in order for the Agency to receive and expend federal funds.

29
30 **SUBCHAPTER E. VOCATIONAL REHABILITATION SERVICES APPEALS AND**
31 **HEARING PROCEDURES**

32
33 **§850.60. Scope.**

34
35 (a) The following statutes and regulations authorize the procedures established by this
36 subchapter:

37
38 (1) The Rehabilitation Act of 1973, as amended, 29 United States Code §701 et
39 seq. and regulations of the United States Department of Education,
40 Rehabilitation Services Administration, 34 Code of Federal Regulations (CFR)
41 Part 361, as amended, relating to the State Vocational Rehabilitation Services
42 Program;

43
44 (2) 34 CFR Part 367, as amended, relating to the Independent Living Services for
45 Older Individuals Who Are Blind (ILS-OIB); and
46

- 1 (3) 34 CFR Part 370, as amended, relating to the Client Assistance Program.
2
3 (b) The procedures in this subchapter apply to those determinations made by Agency
4 personnel that affect the provision of vocational rehabilitation (VR) services and
5 ILS-OIB.
6
7 (1) Unless the determination concerns the denial, reduction, suspension, or
8 termination of VR services or ILS-OIB, it is not subject to review under the
9 procedures of this subchapter.
10
11 (2) The following decisions or determinations are not subject to review under this
12 subchapter:
13
14 (A) Administrative decisions that are made by Agency supervisors or
15 managers without reference to any specific applicant or customer and
16 that apply generally to the provision of VR services to applicants or
17 customers, including to decisions concerning the assignment of
18 personnel;
19
20 (B) Decisions, diagnoses, judgments, actions, or omissions of third-party
21 vendors or service providers;
22
23 (C) Decisions concerning the content of an applicant's or customer's record
24 of service for which remedies are provided under 34 CFR §361.38(c)(4)
25 and §361.47(a)(12); and
26
27 (D) Decisions allegedly violating any state or federal antidiscrimination or
28 civil rights statute (as amended), including the provisions of Texas Labor
29 Code, Chapter 21; the Rehabilitation Act of 1973, as amended; the
30 Americans with Disabilities Act, Section 504; or the Age Discrimination
31 in Employment Act.
32
33 (c) Ineligibility. The following may challenge a determination of ineligibility through
34 the procedures of this subchapter:
35
36 (1) Applicants who are found not to be eligible for VR services; and
37
38 (2) Previously eligible individuals who have been determined no longer eligible
39 for VR services under 34 CFR §361.43.
40
41 (d) An individual's decision to seek an informal resolution of matters about which the
42 individual is dissatisfied shall not prevent, compromise, or delay the individual's
43 access to formal resolution procedures in this subchapter.
44
45 (e) The Agency shall not suspend, reduce, or terminate VR services being provided to an
46 applicant or customer, including evaluation and assessment services and the

1 development of an Individualized Plan for Employment, pending a resolution of the
2 applicant's or customer's appeal by mediation or hearing, unless:

- 3
4 (1) the applicant or customer requests a suspension, reduction, or termination of
5 services; or
6
7 (2) the Agency has evidence that the applicant or customer obtained the services
8 through misrepresentation, fraud, collusion, or criminal conduct.
9

10 **§850.61. Definitions.**

11
12 The following words and terms, when used in this subchapter, have the following
13 meanings unless the context clearly indicates otherwise. The use of the singular or plural
14 case is not meant to be limiting unless the context clearly indicates otherwise.
15

- 16 (1) Act--The Rehabilitation Act of 1973 as amended, 29 United States Code §701,
17 et seq.
18
19 (2) Appellant--An applicant, eligible individual, authorized representative, or
20 parent who has initiated formal procedures under this subchapter.
21
22 (3) Applicant--An individual who submits an application for vocational
23 rehabilitation services in accordance with 34 Code of Federal Regulations Part
24 361.
25
26 (4) Authorized representative--An attorney authorized to practice law in the State
27 of Texas, or an individual designated by a party to represent the party in
28 hearing procedures. The term includes a parent or an individual made legally
29 responsible for a child by a court of competent jurisdiction.
30
31 (5) Customer--An applicant or an individual with a disability who is receiving
32 vocational rehabilitation services.
33
34 (6) Discovery--The process by which a party, before any final hearing on the
35 merits, may obtain evidence and other information that is relevant to a claim or
36 defense in the appeal.
37
38 (7) Eligible individual--Any individual with a disability determined to be eligible
39 to receive vocational rehabilitation services.
40
41 (8) Hearing--A formal review conducted under this subchapter. This term includes
42 prehearing conferences.
43
44 (9) Impartial hearing officer (IHO)--An individual who is appointed to conduct a
45 hearing under this subchapter.
46

- 1 (10) Individualized Plan for Employment--A plan developed for each individual
2 determined to be eligible for vocational rehabilitation services, in accordance
3 with 34 Code of Federal Regulations Part 361.
4
- 5 (11) Parent--The term "parent," whether singular or plural, means a minor child's
6 natural or adoptive parent, the spouse of the minor child's natural or adoptive
7 parent, the minor child's surrogate or foster parent, the spouse of the surrogate
8 or foster parent, or other individual made legally responsible for the minor
9 child by a court.
10
- 11 (12) Party--An individual or agency named or admitted to participate in a formal
12 hearing.
13
- 14 (13) Record--The official record of a hearing, including all arguments, briefs,
15 pleadings, motions, intermediate rulings, orders, evidence received or
16 considered, statements of matters officially noticed, questions and offers of
17 proof, objections and rulings on objections, proposed findings of fact,
18 conclusions of law, and IHO decision; any other decision, opinion, or report by
19 the IHO or Commission; and all memoranda or data, including customer and
20 applicant files, submitted to or considered by the IHO.
21

22 **§850.62. Filing a Request for Review.**
23

- 24 (a) Any applicant or eligible individual who is dissatisfied with a determination made by
25 the Agency, as described in §850.60 of this subchapter (relating to Scope), may
26 request, or, if appropriate, may request through the individual's authorized
27 representative, a review of the determination. Although no prescribed form is
28 required to file a request, preprinted forms for this purpose are available on request
29 within the Agency's Office of General Counsel or at any Agency vocational
30 rehabilitation office.
31
- 32 (b) The request for a review shall be filed within 180 calendar days from the date of the
33 determination and shall be filed in writing with the hearings coordinator within the
34 Agency's Office of General Counsel. A request shall be considered filed on the day
35 that it is received by the hearings coordinator within the Agency's Office of General
36 Counsel.
37
- 38 (c) On receiving a request for review, the hearings coordinator within the Agency's
39 Office of General Counsel shall, within five working days, mail the appellant:
40
- 41 (1) the name, address, and telephone number of the Client Assistance Program
42 established under federal law that can, among other things, assist and advocate
43 for customers during an appeal and informal dispute resolution;
44
- 45 (2) the name of the IHO appointed to hear the appeal, and the date, time, and place
46 of any prehearing;

- 1
2 (3) a copy of applicable hearing procedures; and
3
4 (4) notice that the appellant has the right to request mediation procedures.
5

6 **§850.69. Reasonable Accommodations.**
7

- 8 (a) Any hearing or proceedings conducted under this subchapter shall be held, whenever
9 feasible, by telephone (directly or by relay), at a time and place reasonably accessible
10 to the appellant and any witnesses, and convenient for parties. In considering the
11 physical location of a hearing or proceeding, the IHO shall consider, among other
12 factors:
13
14 (1) the suitability of any proposed facilities for a hearing, including the ability of
15 the appellant and any witnesses to gain physical access to the proceedings and
16 facilities; and
17
18 (2) the comparative distances and times required to travel from places of work or
19 residence to a proposed hearing location by parties and witnesses.
20
21 (b) The Agency shall, upon reasonable notice, provide the appellant with readers or
22 interpreters. Reasonable notice shall be considered to be no fewer than five working
23 days prior to the proceeding, unless good cause for a shorter period exists in the
24 judgment of the IHO.
25
26 (c) A copy of a transcript prepared during hearing proceedings and all notices and
27 documents shall be provided to the appellant in an accessible format on request.
28
29 (d) The Agency shall bear the costs related to providing reasonable accommodations for
30 hearings or proceedings conducted under this subchapter.
31

32 **§850.82. Documentary Evidence and Official Notice.**
33

- 34 (a) Documentary evidence may be received in the form of copies or excerpts if the
35 original is not readily available. On request, parties shall be given an opportunity to
36 compare the original and the copy or excerpt.
37
38 (b) When numerous similar documents that are otherwise admissible are offered into
39 evidence, the IHO may limit the documents received to those that are typical and
40 representative. The IHO may also require that an abstract of relevant data from the
41 documents be presented in the form of an exhibit, provided that all parties are given
42 the right to examine the documents from which such abstracts were made.
43
44 (c) The following laws, rules, regulations, and policies are officially noticed:
45
46 (1) The Rehabilitation Act of 1973, as amended, 29 United States Code §701, et

1 seq.;

- 2
- 3 (2) United States Department of Education regulations, 34 Code of Federal
4 Regulations Parts 361 and 367;
- 5
- 6 (3) The Agency's State Plan for Vocational Rehabilitation Services;
- 7
- 8 (4) The Agency's Vocational Rehabilitation and Independent Living for Older
9 Individuals Who Are Blind policy manuals; and
- 10
- 11 (5) Texas Administrative Code, Title 40, Part 20, Texas Workforce Commission.

12

13 (d) Official notice also may be taken of:

- 14
- 15 (1) all facts that are judicially cognizable; and
- 16
- 17 (2) generally recognized facts within the area of the Agency's specialized
18 knowledge.
- 19

20 **§850.84. Impartial Hearing Officer Decision.**

- 21
- 22 (a) Within 30 days of the hearing completion date, the IHO shall issue a decision that is
23 based on the evidence and consistent with the provisions of the approved State Plan;
24 the Act, as amended; federal vocational rehabilitation regulations, state regulations,
25 and policies that are consistent with federal requirements, and shall provide to the
26 appellant or, if appropriate, the appellant's authorized representative, and the
27 Agency's authorized representative or the Agency's Office of General Counsel, as
28 appropriate, a full written report of the findings of fact, conclusions of law, and any
29 other grounds for the decision.
- 30
- 31 (b) The decision shall address each issue considered by the IHO.
- 32
- 33 (c) The IHO may prescribe such remedies as are appropriate within the scope of, and
34 permitted by, as applicable, Texas Labor Code, Chapter 352; the Act, as amended;
35 the regulations of the Rehabilitation Services Administration of the United States
36 Department of Education, 34 Code of Federal Regulations Parts 361 and 365; and
37 the Agency's policies and rules.
- 38
- 39 (1) The IHO shall not award restitutionary, compensatory, or monetary relief,
40 including monetary damages, to any party.
- 41
- 42 (2) The IHO shall not prescribe an action affecting the employment of an Agency
43 employee.