

Chapter 837. APPRENTICESHIP TRAINING PROGRAM

PROPOSED RULES WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS REGISTER*. THIS DOCUMENT WILL HAVE NO SUBSTANTIVE CHANGES BUT IS SUBJECT TO FORMATTING CHANGES AS REQUIRED BY THE *TEXAS REGISTER*.

ON **JANUARY 17, 2018**, THE TEXAS WORKFORCE COMMISSION PROPOSED THE BELOW RULES WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS REGISTER*.

Estimated Publication Date of the Proposal in the *Texas Register*: **February 2, 2018**

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The Texas Workforce Commission (TWC) proposes amendments to the following sections of Chapter 837, relating to the Apprenticeship Training Program:

Subchapter A. General Purpose and Definitions, §837.2

Subchapter B. Funding, §837.22, §837.23, §837.24, §837.26, and §837.27

Subchapter C. Compliance Monitoring, §837.41

- PART I. PURPOSE, BACKGROUND, AND AUTHORITY
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PART I. PURPOSE, BACKGROUND, AND AUTHORITY

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

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

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

PART II. EXPLANATION OF INDIVIDUAL PROVISIONS

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

SUBCHAPTER A. GENERAL PURPOSE AND DEFINITIONS

TWC proposes the following amendments to Subchapter A:

§837.2. Definitions

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

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

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

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

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

SUBCHAPTER B. FUNDING

TWC proposes the following amendments to Subchapter B:

§837.22. Eligible Applicants

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

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

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

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

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

§837.23. Local Workforce Development Board Review

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

§837.24. Funding Qualifications for Apprenticeship Training Programs

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

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

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

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

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

§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 proposes 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."

PART III. IMPACT STATEMENTS

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

There are no additional estimated costs to the state and to local governments expected because of enforcing or administering the rules.

There are no estimated cost reductions to the state and to local governments because of enforcing or administering the rules.

There are no estimated losses or increases in revenue to the state or to local governments because of enforcing or administering the rules.

There are no foreseeable implications relating to costs or revenue of the state or local governments because of enforcing or administering the rules.

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

There is no anticipated adverse economic impact on small businesses, microbusinesses, or rural communities as a result of enforcing or administering the rules.

Based on the analyses required by Texas Government Code §2001.024, TWC has determined that the requirement to repeal or amend a rule, as required by Texas Government Code §2001.0045, does not apply to this rulemaking. Additionally, Texas Education Code §3133.007 requires TWC's three-member Commission to adopt rules necessary to implement the provisions in Chapter 133 of the Texas Education Code regarding the apprenticeship training program. Therefore, the exception identified in §2001.0045(c)(9) also applies.

Government Growth Impact Statements

TWC has determined that during the first five years the amendments will be in effect:

- the proposed amendments will not create or eliminate a government program;
- implementation of the proposed amendments will not require the creation or elimination of employee positions;
- implementation of the proposed amendments will not require an increase or decrease in future legislative appropriations to the Agency;
- the proposed amendments will not require an increase or decrease in fees paid to the Agency;
- the proposed amendments will not create a new rule;
- the proposed amendments will not expand, limit, or repeal an existing rule;
- the proposed amendments will not change the number of individuals subject to the rule; and
- the proposed amendments will not positively or adversely affect the state's economy. TWC has insufficient information to determine the proposed amendments' effects on the state's economy.

Economic Impact Statement and Regulatory Flexibility Analysis

TWC has determined that the proposed rules will not have an adverse economic impact on small businesses or rural communities, as these proposed rules place no requirements on small businesses or rural communities, including child care providers.

Doyle Fuchs, Director of Labor Market and Career Information, has determined that there is no significant negative impact upon employment conditions in the state because of the rules.

Courtney Arbour, Director, Workforce Development Division, has determined that for each year of the first five years the rules are in effect, the public benefit anticipated because of enforcing the proposed rules will be to allow a registered apprenticeship training program's apprenticeship committee to apply for Chapter 133 funding directly which may result in additional apprenticeship training programs funded by TWC, and ultimately more apprentices trained.

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

PART IV. COORDINATION ACTIVITIES

In the development of these rules for publication and public comment, TWC sought the involvement of Texas' 28 Boards. TWC provided the concept paper regarding these rule amendments to the Boards for consideration and review on October 31, 2017. TWC also conducted a conference call with Board executive directors and Board staff on November 10, 2017, to discuss the concept paper. During the rulemaking process, TWC considered all information gathered to develop rules that provide clear and concise direction to all parties involved.

Comments on the proposed rules may be submitted to TWC Policy Comments, Workforce Policy and Service Delivery, Attn: Workforce Editing, 101 East 15th Street, Room 440T, Austin, Texas 78778; faxed to (512) 475-3577; or e-mailed to TWCPolicyComments@twc.state.tx.us. Comments must be received or postmarked no later than 30 days from the date this proposal is published in the *Texas Register*.

The rules are proposed 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 proposed rules affect Texas Education Code, Chapter 133.

Chapter 837. APPRENTICESHIP TRAINING PROGRAM

SUBCHAPTER A. GENERAL PURPOSE AND DEFINITIONS

§837.2. Definitions.

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

- (1) Administrator's Guide--The Administrator's Guide supplements this chapter by providing all required operational details and procedures for planning and submitting an application for apprenticeship training program funding, as well as the annual timeline for submission. The Administrator's Guide may be accessed on the Agency's [website site](#) at www.texasworkforce.org.
- (2) Apprentice--A full-time paid worker, at least 16 years of age except where a higher minimum age standard is otherwise fixed by law, who is employed in the private sector, registered with the US Department of [Labor \(DOL\)](#) ~~Labor's~~ Office of Apprenticeship, and receives related instruction training to learn a skill in a certified apprenticeable occupation.
- (3) Apprenticeship committee--An autonomous local group consisting of members appointed by one or more employers of apprentices, or by one or more bargaining agents representing members of an apprenticeable trade, or by a combination of the two. An apprenticeship committee, [approved by the DOL Office of Apprenticeship, operates independently as a](#) ~~is~~ designated [sponsor](#) for [an each](#) apprenticeship training program to establish instruction standards and goals for a particular craft or crafts, interview and select applicants, and monitor the program and apprentices as described in Texas Education Code §133.003.
- (4) Apprenticeship training program--A training program that provides on-the-job training, preparatory instruction, supplementary instruction, or related instruction in a trade that has been certified as an apprenticeable occupation by the [DOL](#) ~~US Department of Labor,~~ Office of Apprenticeship. As required by Texas Education Code §133.002(c), an apprenticeship training program shall be under the direction of an apprenticeship committee. The program is a structured system of training designed to prepare individuals for occupations, [including but not limited to those](#) in skilled trades and crafts, by combining training under the supervision of an experienced [journey worker](#) ~~journeyworker~~ with job-related classroom instruction.

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

SUBCHAPTER B. FUNDING

§837.22. Eligible Applicants.

- (a) Grant recipients ~~Local education agencies~~ are the entities eligible to apply to the Agency for apprenticeship training funding.
- (b) Approved grant recipients ~~local education agencies~~ shall:
 - (1) be the fiscal agents for the funds and are subject to the audit procedures set forth in Texas Education Code §133.005;
 - ~~(2) contract with the local apprenticeship committee to fund job-related classroom instruction for a registered apprenticeship training program; and~~
 - (2)(3) apply for funds for each ~~apprenticeship committee and its~~ apprenticeship training ~~program~~ program(s), specifically for related classroom training, supplementary instruction, or preparatory instruction from only one of the following entities:
 - (A) the Commission; or

(B) the Texas Higher Education Coordinating Board.

(c) Local education agencies that fund job-related classroom instruction for a registered apprenticeship training program shall contract with the local, independently operated apprenticeship committee.

(d) Apprenticeship committees that fund job-related classroom instruction for a registered apprenticeship training program shall contract directly with the Agency.

§837.23. Local Workforce Development Board Review.

The grant recipient ~~local education agency~~ shall provide one copy of the application for apprenticeship training program funding to the Local Workforce Development Board (Board) for review and comment and one copy to the Agency. Boards may submit comments to the Agency and the grant recipient ~~local education agency~~ concurrently.

§837.24. Funding Qualifications for Apprenticeship Training Programs.

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

(1) conducted by an independently operated apprenticeship committee; or

(2)(1) be-sponsored by a local education agency pursuant to a contract between the local education agency and an apprenticeship committee.;

(b) (2)—The apprenticeship training program must be certified and registered by the US Department of Labor (DOL) Office of Apprenticeship prior to the applicable fiscal year.;

(c) Each apprenticeship training program shall:

(1)(3) provide the local education agency with a validated copy of its written, national standards as approved by the DOL Office of Apprenticeship (or where national standards do not exist, individual program standards approved by the DOL Office of Apprenticeship); or and

(2) adhere to apprenticeship committee procedures for maintaining individual program standards as approved by the DOL Office of Apprenticeship.

(d)(4) A funded apprenticeship training program must comply with Commission rules and Texas Education Code, Chapter 133.

§837.26. Funding Distribution Process.

- (a) Funds are distributed to the eligible grant recipients ~~local education agencies~~ by the Commission in a two-step process consisting of planning estimates and final distributions. Details of the annual distribution process, including the timeline, are set forth in the Administrator's Guide located on the Agency's website ~~Web site~~ at www.texasworkforce.org.
- (b) Planning Estimates.
 - (1) Each grant recipient ~~local education agency~~ shall report to the Agency the number of approved class hours, estimated number of registered apprentices, and estimated number of contact hours of job-related instruction classes for the prospective fiscal year. The estimated contact hours are determined by the number of registered apprentices anticipated to enroll in a class, multiplied by the number of approved hours that the class will be conducted during the year.
 - (2) The estimated number of contact hours must be submitted by the grant recipient ~~local education agency~~ and received by the Agency on or before the respective due dates as annually prescribed by the Agency.
 - (3) The Agency, after determining the preliminary contact-hour rate, shall notify each grant recipient ~~local education agency~~ of its planning estimates for the prospective fiscal year.
- (c) Final Distributions.
 - (1) Each grant recipient ~~local education agency~~ shall report to the Agency the number of approved class hours, number of registered apprentices, and number of contact hours of job-related instruction classes for the fiscal year.
 - (2) The approved number of contact hours must be submitted by the grant recipient ~~local education agency~~ and received by the Agency on or before the respective due dates as annually prescribed by the Agency.
 - (3) The Agency, after determining the final contact-hour rate, shall notify each grant recipient ~~local education agency~~ of its final distribution based on the final contact-hour rate.

§837.27. Administrative Costs Limitation.

Costs that are allowable, necessary, and reasonably incurred by a grant recipient ~~local education agency~~ to properly administer and manage the funds, such as salaries for grant

recipient ~~local education agency~~ supervisors and administrative supplies, are considered administrative costs. Administrative costs may not exceed 15 percent of the total contract.

SUBCHAPTER C. COMPLIANCE MONITORING

§837.41. Funds Management and Accountability.

Grant recipients ~~Local education agencies~~ shall comply with the applicable rules in Chapter 802 of this title, relating to ~~regarding~~ the Integrity of the Texas Workforce System, specifically:

- (1) Subchapter D, relating to Agency Monitoring Activities;
- (2) Subchapter F, relating to Performance and Accountability;
- (3) Subchapter G, relating to Corrective Actions; and
- (4) Subchapter H, relating to Remedies.