

CHAPTER 849. EMPLOYMENT AND TRAINING SERVICES FOR DISLOCATED WORKERS ELIGIBLE FOR TRADE BENEFITS

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 SEPTEMBER 23, 2014, 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*: **October 10, 2014**
Estimated End of Comment Period: **November 10, 2014**

The Texas Workforce Commission (Commission) proposes amendments to the following sections of Chapter 849, relating to Employment and Training Services for Dislocated Workers Eligible for Trade Benefits:

- Subchapter A. General Provisions, §§849.1 - 849.3
- Subchapter B. Trade Services Responsibilities, §849.11 and §849.12
- Subchapter C. Trade Services, §§849.21 - 849.23

- PART I. PURPOSE, BACKGROUND, AND AUTHORITY
- PART II. EXPLANATION OF INDIVIDUAL PROVISIONS
- PART III. IMPACT STATEMENTS
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PART I. PURPOSE, BACKGROUND, AND AUTHORITY

The purpose of the proposed Chapter 849 rule change is to align changes to the Trade Adjustment Assistance (TAA) program statutes, Agency operations, and program requirements.

TAA is a federal program that provides a path for employment growth and opportunity through aid to workers who have lost their jobs as a result of foreign trade. The TAA program seeks to provide these trade-affected workers with opportunities to obtain the skills, resources, and support they need to become reemployed.

TAA offers a variety of benefits and services to support workers in their search for reemployment. This includes job training, job search and relocation allowances, and income support. The Commission's workforce partners administer these services using federal funds.

The Trade Act of 1974 has been amended numerous times since its enactment in January 1975 and has continued to evolve. The benefits and services available to adversely affected workers depend on which of the following versions of the Trade Act a worker is certified under:

- Trade Adjustment Assistance Reform Act of 2002: reauthorized the TAA program through Fiscal Year 2007;

- Trade and Globalization Adjustment Assistance Act (TGAAA) of 2009: overhauled the TAA program and expanded TAA coverage to more workers and firms in the service sector, and expanded workers' opportunities for training, health insurance coverage, and reemployment;
- Omnibus Trade Act of 2011: extended the TGAAA of 2009 amendments for six weeks;
- Trade Adjustment Assistance Extension Act (TAAEA) of 2011: changed the group eligibility requirements and individual benefits and services available under TAA for some workers; and
- Reversion 2014: the sunset provisions of the TAAEA, effective January 1, 2014, which largely revert the TAA program to the provisions of the 2002 amendments with some provisions carried forward from the 2011 TAAEA.

Rule revisions are needed to implement the changes regarding program requirements, individual benefits, and services available.

To ensure appropriate delivery of services, amendments are necessary to address statutory changes and clarify operational and procedural guidance. These changes include moving functions from the state level to the Board level that update roles and responsibilities as well as better defining the responsibilities of participants.

The intent of these amendments is to provide maximum flexibility for the Boards, ensure compliance with laws and regulations, and integrate and align the Trade program requirements with other workforce programs.

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 PROVISIONS

The Commission proposes the following amendments to Subchapter A:

§849.1. Purpose

Section 849.1(a)(2), regarding the laws under which coordination and integration of services to dislocated workers are conducted, adds reference to the Trade Act, including the federal statutes relating to the Trade Act of 1974.

Section 849.1(a)(4), referencing the Trade Act and the federal statutes relating to the Trade Act of 1974, is removed.

§849.2. Definitions

Section 849.2(1), the definition of "Alternative Trade Adjustment Assistance for Older Workers" (ATAA):

--adds Reemployment Trade Adjustment Assistance (RTAA), which is similar to the ATAA benefit. The availability of RTAA depends on the Trade law under which the US Department of Labor (DOL) issues a Trade certification. Both ATAA and RTAA provide a subsidy for older workers who secure subsequent employment; and

--removes reference to the requirement that new employment must be within 26 weeks of separation because eligibility standards for ATAA and RTAA are different.

New §849.2(2) defines "benchmarking," as a process established by the Trade Adjustment Extension Act of 2011 (TAAEA) to ensure worker success by monitoring workers' academic status and progress in training. Benchmarking is conducted no less often than once every sixty (60) days and designed to monitor and ensure the worker progresses toward completing the approved training based on:

- maintaining satisfactory academic standing; and
- staying on schedule to complete training within the time frame identified in the approved training plan.

New §849.2(5), the definition of "HCTC--Health Coverage Tax Credit," is removed. HCTC expired January 1, 2014; TAA participants will no longer receive HCTC to assist them in paying their health coverage premiums.

New §849.2(6), the definition of "Individual Employment Plan," is removed.

New §849.2(6) defines "job search allowance" as a cash benefit provided to Trade-certified workers to support out-of-area job search when suitable employment is not available within the Commission-established local commuting area. Trade-certified workers receive a job search allowance as a benefit to support out-of-area job search.

New §849.2(8) defines "relocation allowance," as a cash benefit provided to a Trade-certified worker to support relocation of the worker's household and family when suitable employment is not available to the worker within the Commission-established local commuting area and relocation is necessary to secure suitable employment.

New §849.2(9) defines "Reemployment and Training Plan" (REP), as an employability development plan and service strategy that identifies the results of a comprehensive and objective assessment of the participant's knowledge, skills, abilities, and interests; employment goals; a description of training services; the appropriate combination of services for the participant to achieve employment goals and objectives; and the benchmarks for successful completion of the plan.

New §849.2(10) clarifies the definition of "suitable employment" by removing "prior to a referral to Trade-approved training." Suitable employment is any employment that meets the requirements of 19 United States Code (USC) §2296 and results in work of a substantially equal or higher skill level as compared to the worker's past adversely affected employment with wages of not less than 80 percent of the worker's average weekly wage.

New §849.2(11) amends the definition of "Trade Act" to clarify that the Trade Act of 1974, as amended, includes the Trade Adjustment Assistance Reform Act of 2002; the Trade and Globalization Adjustment Assistance Act of 2009; the Omnibus Trade Act of 2010; the Trade Adjustment Assistance Extension Act of 2011; and the sunset provisions of the Trade Adjustment Assistance Extension Act of 2011, referred to as Reversion 2014.

New §849.2(17) amends the definition of "waiver of the training requirement" to specify that a waiver must be approved by state merit staff. Only state merit staff can approve services and benefits for Trade-certified workers.

Certain paragraphs have been renumbered to reflect additions.

§849.3. Trade Service Strategy

Section 849.3(b)(3) clarifies that training supported under the Trade Act may include demand and targeted occupations as well as occupations in which there is a reasonable expectation of employment.

Section 849.3(c) clarifies that coenrollment with Workforce Investment Act (WIA) services must not interfere with the timely provision of TAA services.

Section 849.3(d)(1) - (5) is removed.

New §849.3(d)(1) - (12) retains the services previously located in §849.3(d)(1) - (5) and adds additional services, set forth in the order they are provided. Boards must ensure that the following services are provided to dislocated workers:

- (1) Explanation of benefits and services available under the Trade Act, to include applicable deadlines;
- (2) Assessment of education, skills, and service needs;
- (3) Information on training available locally and regionally, including information on how to apply for financial aid supported under the Higher Education Act of 1965;
- (4) Individual career counseling, including job search and placement counseling;
- (5) Short-term prevocational services;
- (6) Issuance of a waiver of the training requirement where suitable work is unavailable, training is determined not to be feasible or appropriate, and the worker meets applicable eligibility criteria;
- (7) Development of an REP;
- (8) Referral to training services where suitable employment is unavailable;
- (9) Assistance in filing requests for job search and/or relocation allowances;
- (10) Support services available under the WIA Title I dislocated worker program;
- (11) Case management; and
- (12) Follow-up services upon completion of training.

SUBCHAPTER B. TRADE SERVICES RESPONSIBILITIES

The Commission proposes the following amendments to Subchapter B:

§849.11. General Board Responsibilities

Section 849.11(c)(4), relating to Boards' monitoring requirements, adds benchmarking as the required means of ensuring progress toward goals and objectives.

Section 849.11(c)(5), the requirement that the Commission be notified if a participant drops out of training, is removed because this is no longer a monitoring responsibility or requirement of the Boards.

Certain paragraphs have been renumbered to reflect additions.

§849.12. Participant Responsibilities

Section 849.12(1) adds that, in addition to Unemployment Insurance, dislocated workers eligible for Trade benefits must apply for Trade Readjustment Allowances (TRA).

Section 849.12(5) adds that dislocated workers eligible for Trade benefits are required to accept a job offer "and/or retain employment," if the position meets the criteria for suitable employment.

Section 849.12(7) specifies that dislocated workers eligible for Trade benefits are required to "fully participate in Trade-approved training."

Section 849.12(8) specifies that dislocated workers eligible for Trade benefits are required to notify the case manager prior to modifying coursework rather than within one week of having dropped out.

New §849.12(9) requires dislocated workers eligible for Trade benefits to maintain a satisfactory academic status and progress in training as stipulated in the REP.

Certain paragraphs have been renumbered to reflect additions.

SUBCHAPTER C. TRADE SERVICES

The Commission proposes the following amendments to Subchapter C:

§849.21. Activities Prior to Certification of a Trade Petition

Section 849.21(a) replaces the reference to "Texas Workforce Centers" with "Workforce Solutions Offices" to clarify that Workforce Solutions Offices provide services.

Section 849.21(b) removes the reference to "in local workforce development areas."

Section 849.21(b)(3) specifies that when filing Trade petitions, Boards must ensure layoff assistance is provided to companies, workers, and labor unions.

Section 849.21(6)(iii) removes the requirement to provide HCTC information during orientation to Trade benefits. HCTC expired on January 1, 2014; therefore, TAA participants will no longer receive HCTC to assist them in paying their health coverage premiums.

Section 849.21(6)(v)(I) - (III), the requirement to provide a signed waiver of training ensuring eligibility for HCTC and other Trade benefits that have regulatory time limits, is removed.

Section 849.21(7) specifies that Boards must coordinate with the appropriate UI field specialist when providing layoff assistance.

Certain clauses and subclauses have been renumbered to reflect additions.

§849.22. Post Certification of a Trade Petition

Section 849.22(a) sets forth in new paragraphs (1) and (2) that Boards must ensure that:

- (1) Trade-certified workers referred to WIA intensive or training services are coenrolled in WIA dislocated worker services, consistent with WIA eligibility criteria, the needs of the worker, and a Board's policies and procedures; and
- (2) the coenrollment of Trade-certified workers in WIA Title I dislocated worker services shall not interfere with the timely provision of TAA services.

Section 849.22(b) clarifies that Boards must ensure trade-affected workers are provided WIA intensive or training services and adds three additional criteria--described in new §849.22(b)(7) - (9)--to be met and documented in the REP.

Section 849.22(b)(4) removes the requirement that training must be in the commuting area as defined in the Texas Unemployment Compensation Act.

Section 849.22(b)(6) retains the provision that training is available at a reasonable cost for the selected occupation and removes the language stating that the availability is "based on a review of Board-approved training as set forth in §849.23(a)(1) - (4) of this subchapter in the workforce area for like training."

New §849.22(b)(7) - (9) adds the following as criteria that Boards must ensure, prior to referring a trade-affected worker to WIA intensive or training services, are met and documented in the REP:

- (7) Training can be fully completed and the degree or credential secured within the maximum time frames established under the trade-affected worker's Trade Act certification;
- (8) No portion of required training costs are borne by the worker; and
- (9) Part-time training is approved only where permitted by the trade-affected worker's Trade Act certification, and the worker is aware that TRA support during periods of part-time training will be unavailable.

Section 849.22(c)(1) - (3) is removed.

New §849.22(c) provides that Boards must ensure the approval of Trade benefits and services is accomplished by state merit staff, including approval of training, waiver issuance, and waiver continuation, and the associated review and approval of waiver continuation.

New §849.22(d) provides that Boards must ensure that any denial of Trade benefits or services is accomplished by forwarding a recommendation to the Agency's TAA unit for issuance of a formal appealable decision.

§849.23. Training Referrals

Section 849.23(a)(1) - (5) specifies that Boards must ensure that referrals to Trade-funded training are Board approved, and that training:

- (1) meets the nine criteria established in §849.22(b)(1) - (9);

- (2) uses training providers that are licensed under applicable state law or exempt from such requirements, or possessing accreditation recognized by the US Department of Education;
- (3) is occupationally specific;
- (4) meets the needs of employers for demand or targeted occupations, or ensures the participant has a reasonable expectation of employment; and
- (5) can be completed and a degree or credential secured within the maximum time frame established under the worker's Trade certification.

Section 849.23(a)(1)(B) removes the requirement for the Commission to approve prevocational or vocational skills training referrals.

Section 849.23(a)(2) removes the requirement for training to meet the time limitations for Trade benefits.

New §849.23(4) clarifies that training must offer a reasonable expectation of employment.

New §849.23(5) clarifies the requirement that training can be completed with a degree or credential secured within the statutory time frames established under the worker's Trade certification.

Section 849.23(b)(1) adds that employer-based training includes on-the-job training, customized training, and apprenticeship programs.

Section 849.23(b)(3) specifies that workers' remedial training, including literacy, particularly English as a Second Language, Adult Education and Literacy, or GED training, must be considered.

Section 849.23(b)(3)(A) removes the requirement for the training provider to submit amendments to the IEP.

Section 849.23(b)(3)(B) removes the requirement that the case manager approves amendments before the Commission makes the final determinations regarding extended training.

Certain paragraphs have been renumbered to reflect additions.

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 as a result of enforcing or administering the rules.

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

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

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

Economic Impact Statement and Regulatory Flexibility Analysis

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

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

Reagan Miller, Director, Workforce Development Division, has determined that for each year of the first five years the rules are in effect, the public benefit anticipated as a result of enforcing the proposed rules will be to align changes to TAA statutes, Agency operations, and program requirements.

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

PART IV. COORDINATION ACTIVITIES

In the development of these rules for publication and public comment, the Commission sought the involvement of Texas' 28 Boards. The Commission provided the concept paper regarding these rule amendments to the Boards for consideration and review on July 22, 2014. The Commission also conducted a conference call with Board executive directors and Board staff on July 25, 2014, to discuss the concept paper. During the rulemaking process, the Commission considered all information gathered in order 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 Labor Code §301.0015 and §302.002(d), which provide the Texas Workforce Commission with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of Agency services and activities.

The proposed rules affect Title 4, Texas Labor Code, particularly Chapters 301 and 302.

CHAPTER 849. EMPLOYMENT AND TRAINING SERVICES FOR DISLOCATED WORKERS ELIGIBLE FOR TRADE BENEFITS

SUBCHAPTER A. GENERAL PROVISIONS

§849.1. Purpose.

(a) The ~~purpose~~purposes of this ~~chapter is rule are~~ to ensure:

- (1) statewide availability of services under the federal and state statutes and regulations relating to services to dislocated workers eligible for Trade benefits through the Workforce Solutions Offices~~Texas Workforce Centers~~ consistent with Chapter 801 of this title relating to Local Workforce Development Boards~~the One-Stop Service Delivery Network~~;
- (2) coordination and integration of services to dislocated workers eligible for Trade benefits through the Workforce Solutions Offices ~~Texas Workforce Centers~~ consistent with state law, the Trade Act, and the Workforce Investment Act (WIA). For the purposes of this subchapter, references to the "Trade Act" include references to the federal statutes relating to the Trade Act of 1974, as amended; and
- (3) provision of Rapid Response services, as set forth in §849.21(b) of this chapter, upon receipt of a filed petition for Trade certification with the U.S. Department of Labor (DOL); ~~and~~
- ~~(4) co-enrollment of Trade-certified workers in WIA, as appropriate, consistent with the Trade Act and WIA. For purposes of this subchapter, references to the "Trade Act" shall include references to the federal statutes relating to the Trade Act of 1974 and the Trade Act of 2002.~~

(b) The purposes of services to dislocated workers eligible for Trade benefits under the Trade Act ~~and WIA~~ are to:

- (1) ensure that dislocated workers eligible for Trade benefits are assisted in rapid reattachment to employment;
- (2) fund such services to develop or enhance the vocational skills necessary to meet employers' needs when rapid reattachment to the workforce cannot be obtained; and
- (3) provide other such services, as may be funded under state or federal programs, for post-employment activities, as needed.

§849.2. Definitions.

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

- (1) ~~ATAA~~—Alternative Trade Adjustment Assistance for Older Workers/Reemployment Trade Adjustment Assistance (ATAA/RTAA)-- Benefits ~~are~~ available to workers in an eligible worker group who are at least 50 years of age and who obtain different, full-time employment following separation ~~within 26 weeks of separation~~ from adversely affected employment, at wages less than those earned in the adversely affected employment. These workers may receive up to half of the difference between the worker's old wage and the new wage, as set forth in the Trade Act.
- (2) Benchmarking--a process conducted no less often than once every sixty (60) days and designed to monitor and ensure the worker progresses toward completing the approved training based on two criteria:
 - (A) Maintaining satisfactory academic standing; and
 - (B) Staying on schedule to complete training within the time frame identified in the approved training plan.
- (3)(2) Bona Fide Application for Training--any document developed by a Board or provided by the Commission that meets the requirements of 20 CFR §617.3(h)(1)(i), and is signed and dated by the participant, which includes the participant's name, Trade petition number, and specific occupational training.
- (4)(3) Contextual Learning--learning, which includes English and basic skills, presented in the context of the selected vocational skills training.
- (5)~~HCTC~~—~~Health Coverage Tax Credit. This benefit provides a tax credit of 65% of the cost of coverage of the eligible individual and qualified family members under qualified health insurance, as set forth in the Trade Act.~~
- (5)(4) Employer-Based Training--training services specifically designed to meet an employer's staffing and skill needs, including on-the-job and customized training, and apprenticeship programs, ~~as defined by WIA and the Trade Act.~~
- (6)~~IEP~~—~~Individual Employment Plan. An individual employment plan and service strategy that must identify the results of a comprehensive and objective assessment of the knowledge, skills, abilities, and interests; employment goals; a description of the training services; and the appropriate combination of services for the participant to achieve employment goals and objectives.~~

- (6) Job Search Allowance--cash benefit provided to Trade-certified workers to support out-of-area job search when suitable employment is not available within the Commission-established local commuting area.
- (7) Rapid Response Services--as defined by WIA §134; 20 CFR 652 Subpart. C; 20 CFR §665.300, §665.310, §665.320; and the Trade Act.
- (8) Relocation allowance--A cash benefit provided to a Trade-certified worker to support relocation of the worker's household and family when suitable employment is not available to the worker within the Commission-established local commuting area and relocation is necessary to secure suitable employment.
- (9) Reemployment and Training Plan (REP)--An employability development plan and service strategy that identifies the results of a comprehensive and objective assessment of the participant's knowledge, skills, abilities, and interests; employment goals; a description of training services; the appropriate combination of services for the participant to achieve employment goals and objectives; and benchmarks for successful completion of the plan.
- (10)(8) ~~Suitable Employment--any employment prior to a referral to Trade-approved training~~ that meets the requirements of 19 ~~USCU.S.C.~~ §2296 (as referenced in 20 CFR 617 Subpart. C, Reemployment Services, and in particular §617.22(a)(1)(i)), which is employment that results in work of a substantially equal or higher skill level as compared to ~~than~~ the worker's past adversely affected employment, with wages of not less than 80 percent ~~%~~ of the worker's average weekly wage.
- (11)(9) Trade Act--the federal statutes relating to Trade Adjustment Assistance; and Trade Readjustment Allowances (TRAs). For purposes of this rule, references to the "Trade Act" shall include references to the federal statutes relating to the Trade Act of 1974, as amended, which include ~~and~~ the Trade Adjustment Assistance Reform Act of 2002; the Trade and Globalization Adjustment Assistance Act of 2009; the Omnibus Trade Act of 2010; the Trade Adjustment Assistance Extension Act of 2011; and the sunset provisions of the Trade Adjustment Assistance Extension Act of 2011, referred to as Reversion 2014.
- (12)(10) Trade-Affected Worker--any dislocated worker, as defined in WIA §134, or secondarily impacted worker as referenced in 19 ~~USCU.S.C.~~ §2272, who states that his or her job was adversely affected by trade, and ~~or~~ has filed, or whose company has filed, or who has been assisted in filing a petition for Trade certification with the USU.S. Department of Labor (DOL).

(13)(11) Trade Benefits--benefits available to dislocated workers certified by DOL as eligible for Trade benefits, which are funded through the federal Trade program administered by DOL.

(14)(12) Trade-Certified Worker--any worker meeting the definition of trade-affected worker who is covered by a certification of eligibility as a result of a petition and determination of certification under 19 ~~USC~~U.S.C. §2273 by the Secretary of ~~DOL~~the U.S. Department of Labor.

(15)(13) ~~TRAs~~--Trade Readjustment Allowances (TRA)--Income-support benefits available to certain trade-affected workers.

(16)(14) ~~UI~~--Unemployment Insurance (UI)--~~UI~~ program, as set forth in Texas Labor Code §201.001 et seq.

(17)(15) Waiver of the Training Requirement--~~a any~~ document developed ~~by a Board or provided~~ by the Agency, which may be adapted by a Board, that Commission that meets the requirements of the Trade Act, and is approved by state merit staff, which recommends waiving the requirement to be enrolled in Trade-funded training in order to receive TRA~~TRAs and the HCTC~~.

(18)(16) WARN--The Worker Adjustment and Retraining Notification Act, as set forth in WIA and the Trade Act.

§849.3. Trade Service Strategy.

- (a) Boards shall ensure that their strategic planning process includes an analysis of the local labor market to:
 - (1) determine employer needs;
 - (2) determine emerging, targeted, and demand occupations;
 - (3) identify employment opportunities, which include those with a potential for career advancement; and
 - (4) identify employer-based training opportunities.
- (b) Boards shall set local policies for a Trade service strategy that coordinate various service delivery approaches to:
 - (1) assist dislocated workers eligible for Trade benefits in obtaining suitable employment as an alternative to referral to training;
 - (2) promote the use of WIA core and intensive services to support the rapid reattachment to the workforce;

- (3) refer to prevocational and vocational training in demand and targeted occupations, or occupations in which there is a reasonable expectation of employment; and
 - (4) assist in job retention and career advancement.
- (c) Boards shall ensure that dislocated workers eligible for Trade benefits, who are unable to find suitable employment through WIA core services, are ~~coenrolled~~ ~~enrolled~~ in WIA Title I dislocated worker services consistent with WIA eligibility criteria, the needs of the worker, and the policies and procedures of the Board for referral to Trade-funded intensive and training services. The coenrollment of workers into WIA Title I dislocated worker services shall not interfere with the timely provision of TAA services.
- ~~(d) Boards shall ensure that dislocated workers eligible for Trade benefits receive the following services:~~
- ~~(1) career counseling;~~
 - ~~(2) job development and placement;~~
 - ~~(3) case management;~~
 - ~~(4) follow-up services upon completion of training; and~~
 - ~~(5) support services, such as child care and transportation, funded through other sources based on applicable Board policy and procedure.~~
- (d) Boards shall ensure that dislocated workers eligible for Trade benefits receive the following services:
- (1) Explanation of benefits and services available under the Trade Act, to include applicable deadlines;
 - (2) Assessment of education, skills, and service needs;
 - (3) Information on training available locally and regionally, including information on how to apply for financial aid supported under the Higher Education Act of 1965;
 - (4) Individual career counseling, including job search and placement counseling;
 - (5) Short-term prevocational services;
 - (6) Issuance of a waiver of the training requirement where suitable work is

unavailable, training is determined not to be feasible or appropriate, and the worker meets applicable eligibility criteria;

- (7) Development of an REP;
- (8) Referral to training services where suitable employment is unavailable;
- (9) Assistance in filing requests for job search and/or relocation allowances;
- (10) Support services available under the WIA Title I dislocated worker program;
- (11) Case management; and
- (12) Follow-up services upon completion of training.

SUBCHAPTER B. TRADE SERVICES RESPONSIBILITIES

§849.11. General Board Responsibilities.

- (a) Board Planning. A Board shall amend and modify its integrated workforce training and services plan to incorporate and coordinate the design, policy development, and management of the delivery of Trade activities and support services with the delivery of other workforce employment, training, and educational services identified in Texas Government Code §2308.251 et seq., as well as other training and services included in the One-Stop Service Delivery Network as set forth in Chapter 801 of this title.
- (b) Reporting. Boards shall ensure that documentation is maintained as required by the Commission, including documentation required in the Commission's automated reporting system.
- (c) Monitoring. A Board shall ensure that the monitoring of program requirements and participant activities is part of the monitoring required under Chapter ~~802~~⁸⁰⁰, Subchapter ~~D~~^F of this title, relating to monitoring and, in particular, that the monitoring is ongoing and frequent, as determined appropriate by the Board, and consists of the following:
 - (1) timely and accurate reporting of data required for the provision of services to the trade-affected worker;
 - (2) tracking and reporting of participation;
 - (3) tracking and reporting of support services;

- (4) ensuring progress toward achieving the goals and objectives through benchmarking, as established in the worker's REP Individual Employment Plan (IEP), as and defined by WIA and in §849.2(9) §849.2(6) of this chapter; and
- ~~(5) notifying the Commission if a participant drops out of training; and~~
- ~~(5)(6)~~ monitoring other requirements, as prescribed by the Commission.

§849.12. Participant Responsibilities.

As required by the Trade Act, dislocated workers eligible for Trade benefits shall:

- (1) apply for UI and TRA benefits in the manner, and pursuant to the time limits, prescribed by federal and state statutes and regulations; ~~and~~
- (2) contact the local Workforce Solutions Office Center and register for full-time work by enrolling in the Commission's automated job matching system;
- (3) attend Rapid Response and Trade orientation activities;
- (4) report to the employer to whom they are referred for suitable employment;
- (5) accept a job offer and/or retain employment, if it meets the criteria for suitable employment;
- (6) attend scheduled appointments with the case manager, if no suitable employment is available;
- (7) fully participate in Trade-approved training ~~that is full time~~ as defined by the training provider or the Commission;
- (8) notify the case manager prior to modifying approved Trade-funded training by adding or dropping coursework ~~within one week of having dropped out of approved Trade-funded training; and;~~
- (9) maintain satisfactory academic status while enrolled in Trade-funded training and progressing in training as stipulated in the approved REP; and
- ~~(10)(9)~~ report to employers, as referred by case managers, upon completing training.

SUBCHAPTER C. TRADE SERVICES

§849.21. Activities Prior to Certification of a Trade Petition.

- (a) Boards shall develop intervention strategies for providing [Workforce Solutions Office Texas Workforce Center](#) services, which ensure rapid, suitable, and long-term employment for trade-affected workers and dislocated workers eligible for Trade benefits.
- (b) Boards shall ensure that layoff assistance is provided ~~in the local workforce development areas (workforce areas)~~ consistent with WIA Title I Rapid Response services, including the following:
 - (1) contacting the employer immediately on receipt of a filed Trade petition, WARN letter, or other notification of pending layoff;
 - (2) scheduling an on-site meeting with the employer and workers to ensure notification of Rapid Response services, including availability of UI mass claims;
 - (3) assisting [companies, workers, and labor unions](#) with filing ~~a~~ Trade ~~petitions~~[petition](#) with DOL, ~~including a request for certification under ATAA;~~
 - (4) providing initial assessment of the ~~workers~~[workers'](#) English, math, and reading levels as well as transferable skills and interests;
 - (5) registering for work for purposes of entering information in the Commission's automated job matching system;
 - (6) scheduling on- or off-site services for workers, including:
 - (A) orientation to federal Trade Act benefits, which includes the following:
 - (i) TRAs;
 - (ii) Trade Act-funded employment and training activities; [and](#)
 - ~~(iii) Health Coverage Tax Credit (HCTC);~~
 - [\(iii\)](#)~~(iv)~~ A bona fide application for training ensuring that the worker has been notified of all available benefits to which he or she may be eligible; and
 - ~~(v) A signed waiver of training ensuring eligibility for HCTC and other Trade benefits that have regulatory time limits. A waiver is appropriate if the worker has significant barriers to reemployment, such as~~
 - ~~(f) obsolete skills in the worker's most recent occupation;~~

~~(H) similar skills to other workers representing an excess supply of similarly skilled workers in the labor market area; and~~

~~(III) limited English language proficiency coupled with limited or no skills in demand in the local labor market area.~~

(B) orientation to labor market information, including wage data and the availability of demand and targeted occupations as defined by the Board; and

(7) coordinating with the appropriate UI field specialist.

§849.22. Post-Certification of a Trade Petition.

(a) Boards shall ensure that:

(1) Trade-certified workers referred to WIA intensive or training services are coenrolled ~~eo-enrolled~~ in WIA dislocated worker services, consistent with WIA eligibility criteria, the needs of the worker, and a Board's policies and procedures; and

(2) the coenrollment of Trade-certified workers in WIA Title I dislocated worker services shall not interfere with the timely provision of TAA services.

(b) Boards shall ensure that prior to referring a trade-affected worker to WIA intensive or training services, each of the following ~~ninesix~~ criteria are met and documented in the REPIEP:

(1) no suitable employment is available;

(2) ability of the worker to benefit from training, based on a comprehensive assessment of the worker's knowledge, skills, and abilities;

(3) reasonable expectation of employment following completion of the training;

(4) training is reasonably available to the worker, ~~within the commuting area as defined in the Texas Unemployment Compensation Act~~;

(5) worker is qualified to undertake and complete the training based on a comprehensive assessment of the worker's knowledge, skills, abilities, and interests; ~~and~~

- (6) training is available at a reasonable cost ~~based on a review of Board-approved training as set forth in §849.23(a)(1)–(4) of this subchapter in the workforce area for like training~~ for the selected occupation;
 - (7) training can be fully completed and the degree or credential secured within the maximum time frames established under the trade-affected worker's Trade Act certification;
 - (8) no portion of required training costs are borne by the worker; and
 - (9) part-time training is approved only where permitted by the trade-affected worker's Trade Act certification, and the worker is aware that TRA support during periods of part-time training will be unavailable.
- ~~(e) Boards shall ensure that referrals to training and amendments are submitted timely to the training provider and the Commission's Trade Unit for final determination, as appropriate, and include the following:~~
- ~~(1) a comprehensive assessment of the worker's knowledge, skills, abilities, and interests;~~
 - ~~(2) an IEP based on the assessment and a Board's demand and targeted occupation list; and~~
 - ~~(3) information regarding the occupation selected in the counseling process.~~
- (c) Boards shall ensure that the approval of Trade benefits and services is accomplished by state merit staff, including approval of training, waiver issuance, and the associated review and approval of waiver continuation.
- (d) Boards shall ensure that any denial of Trade benefits or services is accomplished by forwarding a recommendation to the Agency's TAA unit for issuance of a formal appealable decision.

§849.23. Training Referrals.

- (a) Boards shall ensure that referrals to Trade-funded training are Board approved as set forth in ~~§849.23(a)(1)(A)–(C) of this subsection, and that training~~; ~~prior to final Commission determination:~~

(1) ~~meets~~Meet the ~~nine~~ ~~six~~ criteria established in §849.22(b)(1) - (9) ~~§849.22(b)(1) - (6)~~ of this subchapter; ~~and~~

~~(2)(A)~~ uses training providers that are licensed under applicable state law or exempt from such requirements, or possessing accreditation recognized by the US Department of Education ~~are in the Eligible Training Provider Certification System as defined Chapter 841 of this title;~~

~~(3)(B)~~ is occupationally specific; ~~prevocational or vocational skills training as approved by the Commission; or~~

~~(C) training that offers contextual learning opportunities for Limited English Proficient (LEP) clients as approved by the Board.~~

~~(2) Meet the time limitations for Trade benefits;~~

~~(4)(3)~~ meets ~~Meet~~ the needs of employers for demand or targeted occupations, or ~~that~~ ensures the participant has a reasonable expectation of employment ~~bona fide job offer;~~ and

~~(5)(4)~~ can be ~~Be~~ completed and a degree or credential secured ~~during~~ within the maximum time frame established under the worker's Trade certification ~~104 weeks of Trade funded benefits, unless otherwise determined by the Commission.~~

(b) Boards shall ensure that the following types of intensive and training services are considered:

(1) employer-based training, including on-the-job training, customized training, and apprenticeship programs;

(2) contextual vocational skills training, particularly for Limited English Proficiency ~~customers~~ ~~(LEP) clients;~~ and

(3) remedial training, including literacy, particularly English as a Second Language ~~(ESL)~~, Adult Education and Literacy ~~Basic Education (ABE)~~, or certificate of general equivalency (GED) ~~training. as stand-alone or linear training only when consistent with the needs of the participant to qualify for certain vocational skills training; or the requirements of employer-based training, as identified in the IEP; and~~

~~(A) the training provider has submitted amendments to the IEP; and~~

~~(B) the case manager has approved the amendments in order for the Commission to make the final determination for extended training.~~