

1 **CHAPTER 805. ADULT EDUCATION AND LITERACY**

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3 **ADOPTED RULES WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS***
4 ***REGISTER*. THIS DOCUMENT WILL NOT HAVE ANY SUBSTANTIVE**
5 **CHANGES BUT IS SUBJECT TO FORMATTING CHANGES AS REQUIRED**
6 **BY THE *TEXAS REGISTER*.**

7
8 **ON DECEMBER 1, 2020, THE TEXAS WORKFORCE COMMISSION ADOPTED**
9 **THE BELOW RULES WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS***
10 ***REGISTER*.**

11
12 Estimated date of publication in the *Texas Register*: **December 18, 2020**
13 The rules will take effect: **December 21, 2020**

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15 The Texas Workforce Commission (TWC) adopts the following new subchapter to
16 Chapter 805, relating to Adult Education and Literacy, *without* changes, as published in
17 the September 25, 2020, issue of the *Texas Register* (45 TexReg 6762):

18
19 Subchapter E. High School Equivalency Subsidy Program, §§805.71 - 805.73

20
21 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**

22 The purpose of new Chapter 805, Subchapter E, High School Equivalency Subsidy
23 Program, is to outline the program implementation and eligibility requirements of a high
24 school equivalency subsidy program required under House Bill (HB) 3, §1.046, enacted
25 by the 86th Texas Legislature, Regular Session (2019). HB 3 added new Texas Education
26 Code, §48.302, concerning Subsidy for High School Equivalency Examination for
27 Certain Individuals, and required the Texas Education Agency (TEA) to enter into a
28 memorandum of understanding with TWC when transferring funds to provide a subsidy
29 for the cost of a high school equivalency exam for individuals who are 21 years of age or
30 older. It also requires TWC to develop rules addressing program implementation and
31 eligibility requirements for this subsidy program. TEA appropriated \$750,000 each year
32 of the 2020 - 2021 biennium for this program.

33
34 In early 2020, TEA and TWC worked with the two high school equivalency test
35 publishers approved to operate in Texas, Pearson for the GED and ETS for the HiSET, to
36 create a process that would be administratively efficient for programs managing the
37 distribution of the subsidy at the local level to eligible and test-ready individuals. On
38 February 10, 2020, TEA and TWC entered into an interagency contract to transfer funds
39 to TWC to implement this program. While TWC moved forward to develop rules, the
40 COVID-19 pandemic impacted TWC's ability to implement the program.

41
42 On May 8, 2020, TWC submitted a letter to the Legislative Budget Board requesting that
43 any unexpended and unobligated funds for the subsidy program from the current fiscal
44 year be transferable to the next fiscal year, beginning September 1, 2020. In this request,
45 TWC noted that the reasons it had been unable to expend funding for this program were
46 the lack of remote testing options from Pearson and ETS (both of which were in the early

1 stages of implementing remote testing guidelines) and the closures of most high school
2 equivalency testing centers and their unknown future reopening status. Additionally,
3 TWC noted that all appropriated funds for the subsidy program would be fully obligated
4 by the end of the biennium.

5
6 A separate rulemaking adopts new 40 TAC Chapter 800, Subchapter F, §800.206, which
7 describes the interagency contract adopted by TEA and TWC for the high school
8 equivalency subsidy program.

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

11
12 **SUBCHAPTER E. HIGH SCHOOL EQUIVALENCY SUBSIDY PROGRAM**
13 **TWC adopts new Subchapter E:**

14
15 **§805.71. Purpose**

16 New §805.71 describes the purpose of the high school equivalency subsidy program.

17
18 **§805.72. Definitions**

19 New §805.72 provides a list of terms and definitions regarding the high school
20 equivalency subsidy program.

21
22 **§805.73. Implementation**

23 New §805.73 gives direction on how TWC will manage and implement this subsidy
24 program via Adult Education and Literacy (AEL) grant recipients and how it will
25 prioritize eligible individuals participating in the AEL program to receive this subsidy.

26
27 TWC hereby certifies that the rules have been reviewed by legal counsel and found to be
28 within TWC's legal authority to adopt.

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30 **PART III. PUBLIC COMMENT**

31 The public comment period closed on October 26, 2020. No comments were received.

32
33 **PART IV. STATUTORY AUTHORITY**

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

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

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2
3 **SUBCHAPTER E. HIGH SCHOOL EQUIVALENCY SUBSIDY PROGRAM**

4 **§805.71. Purpose.**

5
6 The purpose of the high school equivalency subsidy program, as provided in an
7 interagency contract between the Texas Education Agency (TEA) and the
8 Agency, is to provide subsidized high school examination fees to eligible
9 individuals.

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11 **§805.72. Definitions.**

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

- 15
- 16 (1) "Eligible high school equivalency subsidy recipient" means a Texas
17 resident who is 21 years of age or older at the time that a voucher for
18 the subsidy is issued to the individual and who lacks a high school
19 diploma or its equivalent.
 - 20
 - 21 (2) "High school equivalency exam" refers to an exam, as approved by the
22 Texas State Board of Education, for obtaining a Texas Certificate of
23 High School Equivalency (TxCHSE).
 - 24
 - 25 (3) "Subsidy" is an amount not to exceed the cost of one high school
26 equivalency exam, inclusive of all subject areas, as negotiated by TEA.
 - 27
 - 28 (4) "Subsidy program" refers to the high school equivalency subsidy
29 program.
 - 30
 - 31 (5) "Voucher" refers to an electronic or paper-based voucher provided to
32 an eligible individual for taking an individualized high school
33 equivalency test.
 - 34
 - 35 (6) "Voucher allotment" means the annual allotment of vouchers to grant
36 recipients. The allotment is based on the number of high school
37 equivalency tests taken by the participants of each grant recipient.

38
39 **§805.73. Implementation.**

- 40
- 41 (a) When implementing the high school equivalency subsidy program, the
42 Agency will prioritize the subsidy to eligible high school equivalency subsidy
43 recipients who are AEL program participants or former AEL participants
44 within 365 days of their program exit. The Agency may provide the subsidy
45 to eligible high school equivalency subsidy recipients who are not current or
46 former AEL participants, based on a plan approved by the Commission.

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(b) The Commission will approve an initial voucher allotment to the AEL grant recipient based on high school equivalency test-taking data for the grant recipient.

(c) The Commission will approve an initial voucher allotment, by September 1, for each grant recipient. Additionally, the Commission may approve an adjustment of a grant recipient's voucher allotment midyear, or at another time designated by the Commission, based on a grant recipient's voucher usage or demonstrated demand.

(d) AEL grant recipients will manage the distribution of vouchers to eligible high school equivalency subsidy recipients and shall confirm the eligibility of a recipient to receive the subsidy via a voucher.