

Chapter 837. Apprenticeship Texas Education Code, Chapter 133. Apprenticeship System of Adult Career and Technology Education. §§837.1, 837.2, 837.21, 837.22, 837.41-837.44, 837.61-837.65, 837.81-837.85, 837.100, 837.101, 837.121-837.125

Chapter 837. Apprenticeship Training

Subchapter A. General Purpose and Definitions

40 TAC §837.1, §837.2

The Texas Workforce Commission adopts new §§837.1, 837.2, 837.21, 837.22, 837.41-837.44, 837.61-837.65, 837.81-837.85, 837.100, 837.101, and 837.121-837.125, concerning the operation of the Apprenticeship Training program. Sections 837.2, 837.21, 837.41, 837.61, 837.64, 837.65, and 837.82 are adopted with non-substantive changes to the proposed text as published in the April 17, 1998 issue of the *Texas Register* (23 Tex Reg 3813). Sections 837.1, 837.22, 837.42-837.44, 837.62, 837.63, 837.81, 837.83-837.85, 837.100, 837.101, and 837.121-837.125 are adopted without changes and will not be republished.

The purpose of these rules is to implement the provisions of Texas Education Code, Chapter 133, related to state-funded apprenticeship training programs. Such programs fall under the authority of the Commission pursuant to Texas Labor Code, §302.021, related to Consolidation of Workforce Development Programs. These rules may be cited as the Apprenticeship Training Rules.

New Subchapter A concerns the General Purpose and Definitions. New §837.2, concerning Definitions, has been changed to clarify the name of the Bureau of Apprenticeship and Training, to clarify the elements of an apprenticeship agreement, and to clarify the definition of a local education agency.

New Subchapter B concerns the Registration Requirements for apprenticeship training. The title of Subchapter B has been changed to clarify that the listed requirements are for registration purposes. New §837.21, concerning Registration with the Bureau of Apprenticeship and Training, has been changed to clarify that such registration requirements are to qualify for funding.

New Subchapter C concerns the Funding Notice and Application Process. New §837.41, concerning Notice of Available Funds, has been changed to clarify the role of local education agencies.

New Subchapter D concerns the Funding Qualifications. New §837.61, concerning Eligible Applicants, has been changed to conform to the definition of a local education agency. New §837.64, concerning Funding Qualifications for a Related Instruction (Apprentice) Class, has been changed to clarify the method of prescribing due dates to report contact hours. New §837.65, concerning Qualifications for Funding a Supplementary Instruction (Journeyman) Class, has been changed to delete redundant language.

New Subchapter E concerns the Use of Funds and Account Maintenance. New §837.82, concerning Cost Categories, has been changed to provide a more detailed explanation of administrative costs.

New Subchapter F concerns Compliance Monitoring.

New Subchapter G concerns Reporting Requirements.

The following comments were received from the Texas State Director, United States Department of Labor, Bureau of Apprenticeship and Training. Following the comments are the Commission's responses.

Comment: The commenter requested that §837.2 concerning Definitions should include the full name of the Bureau of Apprenticeship and Training.

Response: All instances of the use of Bureau of Apprenticeship and Training have been revised to show the complete name.

Comment: The commenter had a concern with §837.2, Definitions, which defined a local education agency as a sponsor. The commenter requested substituting the phrase "fiscal agent." The commenter also requested deletion of the words "operating an apprenticeship program" in the description of the role of a local education agency. The commenter requested that the source of funds be indicated.

Response: The definition of local education agency has been reworded to clarify the role of such entities, and to indicate that as fiscal agents for the apprenticeship program they will dispense funds pursuant to Texas Education Code, Chapter 133.

Comment: The commenter requested that the rule at §837.21, concerning Registration with the Bureau of Apprenticeship and Training, state that such registration is to qualify for funding. The commenter also questioned the use of the phrase "to obtain acceptance and recording of such program," and asked that it be deleted.

Response: The rule has been expanded to indicate that registration is to qualify for funding. The phrase "to obtain acceptance and recording of such program" is taken directly from the federal regulations for apprenticeship programs at 29 Code of Federal Regulations §29.2(l) and §29.2(m). The Commission believes it provides a more complete description of the purpose for registration and will leave such language unchanged.

Comment: The commenter had a concern with the role of local education agencies as described in §837.41, Notice of Available Funds, and requested that the word "sponsor" be removed and replaced with the phrase "provide related instruction to registered."

Response: The Commission has changed the description of the role for a local education agency in distributing apprenticeship training funds to apprenticeship training programs, by adding the recommended phrase.

In response to internal comments the Commission has revised §837.2 concerning Definitions to clarify the elements of an apprenticeship agreement, has changed the title of Subchapter B concerning Registration Requirements to clarify that the listed requirements are for registration purposes, has changed §837.64 concerning Funding Qualifications for a Related Instruction (Apprentice) Class to clarify the method of prescribing due dates to report contact hours, has changed §837.65 concerning Qualifications for Funding a Supplementary Instruction (Journeyman) Class to delete redundant language, and has changed §837.82 concerning Cost Categories to provide a more detailed explanation of administrative costs.

The new rules are adopted under Texas Labor Code, Section 301.061 which provides the Texas Workforce Commission with the authority to adopt such rules as it deems necessary for the effective administration of the Act. *§837.2. Definitions.*

In addition to the definitions relating to apprenticeship training found in Texas Education Code, §133.001, and in 29 C.F.R. §29.2, 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 for Apprenticeship Training Programs -- An informational supplement to the Apprenticeship Training Rules, referred to in this chapter as "the Administrator's Guide." The Administrator's Guide is issued annually by the Texas Workforce Commission and provides relevant dates and sample application forms with instructions useful in planning and submitting an application for Apprenticeship Training Program funding. The Administrator's Guide may be obtained from the Texas Workforce Commission, Apprenticeship Training, 101 East 15th Street, Austin, Texas 78778-0001.

(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 to learn a skilled trade under standards of apprenticeship established by the Bureau of Apprenticeship and Training of the U.S. Department of Labor.

(3)

Apprenticeship agreement -- A written agreement between an apprentice and either an employer or an apprenticeship committee acting as agent for employer(s), which contains the terms and conditions of the employment and training of the apprentice. The elements of an apprenticeship agreement are set forth at 29 C.F.R. §29.6.

(4)

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 a combination of the above. An apprenticeship committee is designated for 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.

(5)

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 Bureau of Apprenticeship and Training of the U.S. Department of Labor. The program is a structured system of training designed to prepare individuals for occupations in skilled trades and crafts by combining training under the supervision of experienced journeymen with job-related classroom instruction.

(6)

Bureau of Apprenticeship and Training -- The U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training.

(7)

Commission -- The Texas Workforce Commission.

(8)

Federal Regulations -- The U.S. Department of Labor standards for the registration of apprenticeship programs found in 29 C.F.R. Part 29.

(9)

Local Education Agency - For purposes of this Chapter 837, a public school district or state post- secondary institution, that provides funding under Chapter 133, Texas Education Code, for an apprenticeship training program pursuant to a contract with an apprenticeship committee.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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Subchapter B. Federal Requirements

40 TAC §837.21, §837.22

The new rules are adopted under Texas Labor Code, Section 301.061 which provides the Texas Workforce Commission with the authority to adopt such rules as it deems necessary for the effective administration of the Act. §837.21. *Registration with the Bureau of Apprenticeship and Training.*

(a)

To qualify for funding, all apprenticeship training programs must be registered with the Bureau of Apprenticeship and Training to obtain acceptance and recording of such program as meeting the basic standards and requirements defined in 29 C.F.R. Part 29. Approval of an apprenticeship training program is evidenced by a Certificate of Registration issued by the Bureau of Apprenticeship and Training.

(b)

All apprenticeship agreements must be registered with the Bureau of Apprenticeship and Training to obtain acceptance and recording of such agreement as evidence of the participation of the apprentice in a particular registered apprenticeship program.

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Subchapter C. Funding Notice and Application Process

40 TAC §§837.41-837.44

The new rules are adopted under Texas Labor Code, Section 301.061 which provides the Texas Workforce Commission with the authority to adopt such rules as it deems necessary for the effective administration of the Act. §837.41. *Notice of Available Funds.*

(a)

The Commission, upon the recommendation of the Texas Council on Workforce and Economic Competitiveness, shall provide annual notice, through publication in the Texas Register , to all potential program sponsors of funds available to support apprenticeship training programs for the prospective fiscal year. The Apprenticeship Training Program's fiscal year starts on September 1 and ends on August 31 of each year.

(b)

The notice shall also include the annual funding formula for the prospective fiscal year, consisting of the contact-hour rate, the percentage of funds available for new programs or established programs not currently receiving funds, and any funds set aside for other funding purposes.

(c)

The contact-hour rate is the method used to distribute apprenticeship training funds to local education agencies that provide related instruction to registered apprenticeship training programs. The contact-hour rate is determined by the

statewide total number of contact hours of apprenticeship training instruction classes divided into the amount of available funds.

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Subchapter D. Funding Qualifications

40 TAC §§837.61-837.65

The new rules are adopted under Texas Labor Code, § 301.061 which provides the Texas Workforce Commission with the authority to adopt such rules as it deems necessary for the effective administration of the Act.

§837.61. Eligible Applicants.

(a)

Entities eligible to apply to the Commission for apprenticeship training funding are public school districts and state post-secondary institutions.

(b)

Approved local education agencies shall be the fiscal agents for the funds and are subject to the audit procedures described in Texas Education Code, §133.005. Approved local education agencies shall subcontract with the local apprenticeship committee of a registered apprenticeship training program to fund job-related classroom instruction.

§837.64. Funding Qualifications for a Related Instruction (Apprentice) Class.

The following additional eligibility requirements must be met for an apprenticeship training program to qualify for the funding of a related instruction (apprenticeship) class:

(1)

Each apprentice of the specific occupation of the program must:

(A)

be a full-time employee in the private sector in Texas;

(B)

be registered with the Bureau of Apprenticeship and Training on or before September 1 of the applicable program year;

(C)

receive related instruction concurrently with on-the-job training; and

(D)

be physically present on the official third class meeting, or both the second and fourth class meetings, as evidenced by the physical presence of the authorized local education agency administrator.

(2)

Each job-related instruction class for the applicable program year must begin on or after September 1, conduct the fourth class meeting no later than the first Saturday in October, and end on or before August 31.

(3)

Only registered apprentices are allowed to attend a related (apprentice) instruction class. The class will be disallowed for funding for the entire year if anyone else attends the class. The local education agency will reimburse the Commission for any disallowed funding.

(4)

The number of approved related instruction hours per class per year must be certified by the Bureau of Apprenticeship and Training.

(5)

The number of estimated contact hours and the number of actual contact hours of the apprenticeship training instruction classes must be submitted by the local education agency and received by the Commission on or before the respective due dates as annually prescribed by the Commission.

§837.65. Qualifications for Funding a Supplementary Instruction (Journeyman) Class.

Supplementary instruction classes will be funded if eligible and if funds are available after final allocations to related instruction classes. The following eligibility requirements must be met for an apprenticeship training program to qualify for the funding of a supplementary instruction (journeymen) class:

(1)

Each supplementary instruction class shall be for skill upgrading directly related to the trade of the sponsoring organization/association with tasks or skills performed at the journeymen level; not to exceed forty-eight hours of instruction.

(2)

Each supplementary instruction class shall maintain an accurate attendance roster listing every person who attends the class and their attendance.

(3)

Only journeymen who are employed in Texas by members of the support organization/association are allowed to attend supplementary instruction classes. The class will be disallowed for funding if anyone else attends the class.

(4)

For additional background and information on supplementary instruction classes, see the Administrator's Guide.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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Subchapter E. Use of Funds and Account Maintenance

40 TAC §§837.81-837.85

The new rules are adopted under Texas Labor Code, Section 301.061 which provides the Texas Workforce Commission with the authority to adopt such rules as it deems necessary for the effective administration of the Act. §837.82. *Cost Categories.*

Costs are divided into two main categories, administrative and instructional.

(1)

Administrative. Costs that are allowable, necessary and reasonably incurred by the local education agency to properly administer and manage the funds, such as salaries for local education agency supervisors and administrative supplies. Administrative costs may not exceed 15% of the total contract.

(2)

Instructional. Costs that are allowable, necessary and reasonable for the apprenticeship training program to properly conduct the job-related instruction class, such as instructors' salaries and instructional supplies.

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Subchapter F. Compliance Monitoring

40 TAC §§837.100, §837.101

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Subchapter G. Reporting Requirements

40 TAC §§837.121-837.125

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