

1 **CHAPTER 801. LOCAL WORKFORCE DEVELOPMENT BOARDS**

2
3 **PROPOSED RULES WITH PREAMBLE TO BE SUBMITTED TO THE TEXAS**
4 **REGISTER. THIS DOCUMENT WILL HAVE NO SUBSTANTIVE CHANGES BUT IS**
5 **SUBJECT TO FORMATTING CHANGES AS REQUIRED BY THE TEXAS REGISTER.**
6

7 The Texas Workforce Commission (Commission) proposes the following new sections to
8 Chapter 801, relating to Local Workforce Development Boards:

9
10 Subchapter B. One-Stop Service Delivery Network, §§801.24, 801.25, and 801.31

11
12 The Commission proposes amendments to the following sections of Chapter 801, relating to
13 Local Workforce Development Boards

14
15 Subchapter A. General Provisions, §801.1 and §801.16

16 Subchapter B. One-Stop Service Delivery Network, §§801.21 - 801.23, 801.27, and 801.28

17
18 The Commission proposes the repeal of the following sections of Chapter 801, relating to Local
19 Workforce Development Boards:

20
21 Subchapter A. General Provisions, §801.2 and §801.13

22 Subchapter B. One-Stop Service Delivery Network, §§801.24, 801.25, and 801.31

23
24 The Commission proposes the repeal of the following subchapter of Chapter 801, relating to
25 Local Workforce Development Boards, in its entirety:

26
27 Subchapter C. The Integrity of the Texas Workforce System, §§801.51 - 801.56

- 28
29 PART I. PURPOSE, BACKGROUND, AND AUTHORITY
30 PART II. EXPLANATION OF INDIVIDUAL PROVISIONS
31 PART III. IMPACT STATEMENTS
32 PART IV. COORDINATION ACTIVITIES
33

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

35 Texas Government Code §2001.039 requires that every four years each state agency review and
36 consider for readoption, revision, or repeal each rule adopted by that agency. The Commission
37 has conducted a rule review of Chapter 801, Local Workforce Development Boards (Boards),
38 and proposes the following:

39 --Repeal of rules related to the integrity of the Texas workforce system. Certain provisions of
40 the repealed rules will be consolidated into proposed new Chapter 802, which focuses solely on
41 the integrity of the workforce system. Proposal of new Chapter 802 will run concurrently with
42 this rulemaking. The aggregation of these rules in a separate chapter allows Chapter 801 to
43 address only Boards, resulting in better clarity and consistency.

44 --Amendment of Subchapter B, relating to the One-Stop Service Delivery Network, by:

45 --defining Texas Workforce Centers and Workforce Solutions Centers;

46 --classifying all workforce offices as Workforce Solutions Offices;

1 --establishing only one certification level for all Workforce Solutions Offices providing
2 workforce services; and
3 --transferring responsibility for certifying Workforce Solutions Offices from the Commission
4 to the Boards.
5 --Necessary technical changes to simplify and clarify rule language, update terminology and
6 definitions, and remove obsolete provisions.
7

8 Currently, Commission rules outline policy relating to requirements for Texas Workforce Center
9 certification/standards, which establish the following center certification levels:

- 10 --Basic Texas Workforce Center
- 11 --Certified Texas Workforce Center
- 12 --Full-Service Texas Workforce Center
- 13 --Certified Full-Service Texas Workforce Center

14
15 At a minimum, Texas Workforce Centers must meet the basic standards. If Texas Workforce
16 Centers exceed the basic standards and meet additional Commission-established standards, they
17 are considered full-service. Further, if a Board requests that the Commission conduct a
18 certification review of a particular Texas Workforce Center, the center is deemed a Certified
19 Texas Workforce Center. All local workforce development areas (workforce areas) must have at
20 least one Certified Full-Service Texas Workforce Center.
21

22 These certification standards were developed in 1996, pursuant to Texas Labor Code §301.001,
23 which created the Texas Workforce Commission. The statute established the requirement for
24 Texas Workforce Centers, and established the required and optional workforce partners.
25 Subsequently, Congress authorized the Workforce Investment Act (WIA), which contained
26 several grandfather provisions allowing Texas to continue using its previously adopted
27 workforce structure.
28

29 As the Commission implemented House Bill 1863 in 1996, it elected to take on the responsibility
30 of ensuring that newly formed Boards complied with the provisions of the statute, including the
31 provisions now contained in Texas Government Code §2308.312 regarding the establishment of
32 Texas Workforce Centers. To ensure that uniform minimum standards were met statewide in
33 this nascent system, the Commission established in rule that it was the entity responsible for
34 certifying Boards' compliance with the rules regarding services available at Texas Workforce
35 Centers.
36

37 With the maturation of the Texas workforce system, Boards now have a clear understanding of
38 the necessary standards for Texas Workforce Centers, and Boards use a variety of methods to
39 deliver a wide range of services. Thus, the requirement for Commission review and certification
40 is no longer necessary and, in fact, may inadvertently impede Boards' development of innovative
41 and streamlined service delivery methods. The Commission believes that transferring these
42 responsibilities to the Boards will allow Boards to develop innovative and streamlined service
43 delivery methods.
44

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

46

1 (Note: Minor editorial changes are made that do not change the meaning of the rules and,
2 therefore, are not discussed in the Explanation of Individual Provisions.)
3

4 **SUBCHAPTER A. GENERAL PROVISIONS**

5 **The Commission proposes the following amendments to Subchapter A:**
6

7 **§801.1. Requirements for Formation of Local Workforce Development Boards**

8 Section 801.1(b), State Law, replaces the reference to the "Workforce and Economic
9 Competitiveness Act" with "Workforce Investment Act" to align with Texas Government Code,
10 Chapter 2308. Senate Bill 281, 78th Texas Legislature, Regular Session (2003), amended
11 Chapter 2308, and replaced all references to the Workforce and Economic Competitiveness Act
12 with Workforce Investment Act.
13

14 Section 801.1(e), Time of Application, replaces the reference to Workforce Economic
15 Competitiveness Act with Workforce Investment Act to align with the Texas Government Code,
16 Chapter 2308.
17

18 Section 801.1(g)(2)(A)(ii)(II) replaces the term "Texas Workforce Center" with "Workforce
19 Solutions Office," as defined in §801.23(4).
20

21 **§801.2. Waivers**

22 Section 801.2 is repealed. The information in this section has been incorporated into new
23 Chapter 802, a separate, but concurrent, rulemaking proposal that groups together common rules
24 that address the integrity of the workforce system.
25

26 **§801.13. Board Member Conflicts of Interest**

27 Section 801.13 is repealed. The information in this section has been incorporated into new
28 Chapter 802, a separate, but concurrent, rulemaking proposal that groups together common rules
29 that address the integrity of the workforce system.
30

31 **§801.16. Partnership Agreement**

32 Section 801.16 replaces the title "Agreement for Local Procedures" with "Partnership
33 Agreement" to align with terminology in Texas Government Code §2308.253(g).
34

35 Section 801.16(a) - (c) replaces the reference to "Agreement for Local Procedures" with
36 "Partnership Agreement" to align with terminology in Texas Government Code §2308.253(g).
37

38 Section 801.16(d)(1) - (2) replaces the reference to "Agreement for Local Procedures" with
39 "Partnership Agreement" to align with terminology in Texas Government Code §2308.253(g).
40

41 Section 801.16(e) replaces the reference to "Agreement for Local Procedures" with "Partnership
42 Agreement" to align with terminology in Texas Government Code §2308.253(g).
43

44 **SUBCHAPTER B. ONE-STOP SERVICE DELIVERY NETWORK** 45 46

1 **The Commission proposes the following amendments to Subchapter B:**

2
3 **§801.21. Scope and Purpose**

4 Section 801.21(b) replaces the references to §801.2 and §801.54. Both sections are repealed and
5 incorporated into new Chapter 802, a separate, but concurrent, rulemaking proposal that groups
6 together common rules that address the integrity of the workforce system. References to new
7 §802.21 (relating to Board Contracting Guidelines) and §802.44 (relating to Service Delivery
8 Waiver Requests), respectively, are added.

9
10 Section 801.21(b) also corrects the reference to Texas Government Code, Chapter 2803, with
11 Texas Government Code, Chapter 2308.

12
13 **§801.22. Requirement to Maintain a One-Stop Service Delivery Network**

14 Section 801.22 replaces the term "Certified Full-Service Texas Workforce Center" with
15 "Workforce Solutions Office," as defined in §801.23(4) of this chapter, to reflect the removal of
16 §801.23(1), the definition of "Certified Full-Service Texas Workforce Center." All workforce
17 offices are classified as Workforce Solutions Offices under new §801.24(a), and new §801.24(b)
18 establishes only one certification level for Workforce Solutions Offices.

19
20 **§801.23. Definitions**

21 Section 801.23(1), the definition of Certified Full-Service Texas Workforce Center, is removed.
22 New §801.24(a) classifies all workforce offices as Workforce Solutions Offices, and new
23 §801.25 establishes only one certification level for Workforce Solutions Offices; therefore, this
24 definition is obsolete.

25
26 Section 801.23(2), the definition of Certified Texas Workforce Center, is removed. New
27 §801.24(a) classifies all workforce offices as Workforce Solutions Offices, and new §801.24(b)
28 establishes only one certification level for Workforce Solutions Offices; therefore, this definition
29 is obsolete.

30
31 Section 801.23(3), the definition of competent, is removed. Texas Labor Code §302.151 defines
32 veterans for the purposes of receiving job training and employment priority, and competency is
33 not a criterion.

34
35 New §801.23(4) defines Workforce Solutions Office as a local Workforce Solutions Office that
36 provides one or more services, as set out in §801.25 of this subchapter, to aid employers and job
37 seekers.

38
39 Certain paragraphs in this section have been renumbered to accommodate additions or deletions.

40
41 **§801.24. Texas Workforce Center Certification Levels**

42 Section 801.24 is repealed and proposed as new.

43
44
45 **§801.24. Workforce Solutions Office Certification**

1 New §801.24 addresses the certification process for Workforce Solutions Offices. Since 1996,
2 the Commission has reviewed and certified Workforce Solutions Offices. In that time, the Texas
3 workforce system has matured and Boards clearly understand the certification standards. The
4 Commission will maintain its oversight responsibility for the certification of Workforce
5 Solutions Offices.

6
7 New §801.24(a) classifies all workforce offices that provide workforce services as Workforce
8 Solutions Offices.

9
10 New §801.24(b) requires that Boards ensure that at least one Workforce Solutions Office in the
11 workforce area provides on-site access to all services set forth in §801.25.

12
13 New §801.24(c), Certified Workforce Solutions Offices, requires Boards, as directed by the
14 Commission, to provide certification to the Commission for every Workforce Solutions Office
15 that provides on-site access to all services set forth in §801.25.

16
17 New §801.24(d), Other Workforce Solutions Offices, requires Boards, as directed by the
18 Commission, to notify the Commission of all on-site services available at any Workforce
19 Solutions Office that does not provide on-site access to all services set forth in §801.25.

20
21 New §801.24(e) requires Boards to notify the Commission, when a change occurs, of the
22 requirements set forth in subsections (c) and (d) of this section.

23
24 New §801.24(f) states that the Commission shall verify compliance with subsections (b) - (d) of
25 this section through:

- 26 (1) issuance of Agency guidance;
27 (2) assurances set forth in Agency-Board agreements;
28 (3) annual monitoring reviews; and
29 (4) other means as identified by the Agency.

30
31 **§801.25. Texas Workforce Center Standards**

32 Section 801.25 is repealed and proposed as new.

33
34 **§801.25. Minimum Standards for Certified Workforce Solutions Offices**

35 New §801.25 delineates the standards that Boards shall ensure Workforce Solutions Offices
36 meet.

37
38 New §801.25(a) requires Boards to ensure that each Workforce Solutions Office:

- 39 (1) provides basic labor exchange services;
40 (2) provides services set forth in §801.28(a);
41 (3) provides access to information and services available in the workforce area; and
42 (4) addresses the individual needs of employers and job seekers.

43
44 New §801.25(b) requires Boards to ensure that the services provided by each Workforce
45 Solutions Office, as set forth in Texas Government Code, Chapter 2308, include:

- 1 (1) labor market information, including available job openings and education and training
- 2 opportunities;
- 3 (2) uniform eligibility requirements and application procedures for all workforce training and
- 4 services;
- 5 (3) unemployment insurance (UI) assistance;
- 6 (4) independent assessment of individual needs and the development of an employment plan;
- 7 (5) centralized and continuous case management and counseling;
- 8 (6) individual referral for services, including basic education, classroom skills training, on-the-
- 9 job training, and customized training;
- 10 (7) support services, including child care assistance, student loans, and other forms of financial
- 11 assistance required to participate in and complete training; and
- 12 (8) job training and employment assistance for persons formerly sentenced to the Texas
- 13 Department of Criminal Justice's institutional division or state jail division, provided in
- 14 cooperation with Project Reintegration of Offenders.

15
16 New §801.25(c) requires Boards to ensure that each Workforce Solutions Office complies with
17 the following Commission-established standards:

- 18 (1) provides customer access to WorkInTexas.com; résumé preparation tools, including
- 19 software; and Internet access;
- 20 (2) ensures eligible foster youth are given access to workforce services to help meet their
- 21 employment, education, and training needs to transition to independent living, as set forth in
- 22 Texas Family Code §264.121;
- 23 (3) provides each customer with information on local high-growth, high-demand occupations
- 24 and industries, projected wage level upon completion of training programs, and performance of
- 25 training providers when requested;
- 26 (4) ensures that Workforce Solutions Offices' staff is trained and knowledgeable in order to
- 27 provide services to employers and job seekers;
- 28 (5) demonstrates on-site management of all personnel, a plan for cross-training staff in all
- 29 services, minimal programmatic specialization of staff, removal of redundancies within program
- 30 activities, and maximum flexibility to optimize use of resources;
- 31 (6) designs a customer-friendly waiting area and implements written procedures that define the
- 32 steps taken to minimize customer wait time in the reception area and in other areas of Workforce
- 33 Solutions Offices; and
- 34 (7) provides consumer information on the quality of education and training providers and
- 35 includes a mechanism for customer feedback on personal experience with such providers.

36
37 New §801.25(d) requires Boards to ensure that Workforce Solutions Offices that do not provide
38 all on-site services and programs specified in subsections (b) and (c) of this section, provide
39 electronic access to such services and programs.

40
41 New §801.25(e) requires Boards to ensure that only Workforce Solutions Office partners provide
42 developmental services.

43
44
45
46 **§801.27. Workforce Solutions Office Partners**

1 Section 801.27 replaces the title "Texas Workforce Center Partners" with "Workforce Solutions
2 Office Partners," as defined in §800.2(22) of this title, concurrently proposed for amendment.

3
4 Section 801.27(b):

5 --replaces the term "Texas Workforce Center" with "Workforce Solutions Offices," as defined in
6 §801.23(4) of this chapter; and

7 --removes the following from the list of required partners because they are not considered
8 partners: WIA adults, dislocated workers, and youth; FSE&T; TANF Choices; subsidized child
9 care; Wagner-Peyser ES; TAA, Project RIO; and UI.

10
11 **§801.28. Services Available through the One-Stop Service Delivery Network**

12 Section 801.28(a) replaces the term "Certified Texas Workforce Centers" with "Workforce
13 Solutions Offices." All workforce offices are classified as Workforce Solutions Offices under
14 new §801.24(a), and new §801.25 establishes only one certification level for Workforce
15 Solutions Offices.

16
17 Section 801.28(a)(11) changes the term "FSE&T" to "SNAP E&T" to align with federal and state
18 name changes.

19
20 Section 801.28(b)(2) replaces the term "Individual Employment Plan" with "employment plan"
21 to create a general term that applies to all Commission-administered employment and training
22 programs.

23
24 Section 801.28(b)(6) replaces the term "prevocational" with "work readiness," a more current
25 and descriptive term.

26
27 **§801.31. Priority for Workforce Services**

28 Section 801.31 is repealed and proposed as new.

29
30 **§801.31. Priority for Workforce Services**

31 New §801.31 sets forth priority of workforce services for eligible veterans and eligible foster
32 youth, and outlines the order in which workforce services are to be applied. In particular, this
33 section specifies that while Boards must identify eligible veterans at initial point of entry, it is
34 not required for foster youth. Services for foster youth must be prioritized and targeted to meet
35 the needs of eligible foster youth.

36
37 New §801.31(a)(1) - (3) requires Boards to ensure that eligible veterans, as defined in
38 §801.23(2), are identified at the initial point of entry into the workforce system and informed of
39 the following:

- 40 (1) Their right to priority of service;
41 (2) The full array of employment, training, and placement services available under priority of
42 service; and
43 (3) Any applicable eligibility requirements for those programs and services.

44
45 New §801.31(b) requires Boards to ensure that eligible foster youth, as defined in §801.23(1) of
46 this subchapter; are informed of:

- 1 (1) their right to priority of service;
- 2 (2) the full array of employment, training, and placement services available under priority of
- 3 service; and
- 4 (3) any applicable eligibility requirements for those programs and services.

5
6 New §801.31(c)(1) - (3) sets forth the priority order that Boards must apply:

7 (1) Eligible veterans receive priority over all other equally qualified individuals in the receipt of

8 services funded in whole or in part by the U.S. Department of Labor (DOL), in accordance with

9 38 U.S.C. §4215--except state qualified spouses who meet the criterion in §801.23(2)(C)(ii) of

10 this subchapter.

11 (2) Eligible veterans receive priority over all other equally qualified individuals in the receipt of

12 services funded in whole or in part by state funds in accordance with Texas Labor Code

13 §302.152.

14 (3) Eligible foster youth receive priority over all other equally qualified individuals--except

15 eligible veterans as defined in this subchapter--in the receipt of federal or state-funded services in

16 accordance with Texas Family Code §264.121(3).

17

18 **SUBCHAPTER C. THE INTEGRITY OF THE TEXAS WORKFORCE SYSTEM**

19 **The Commission proposes the repeal of Subchapter C in its entirety:**

20

21 §801.51. Purpose and General Provisions

22 §801.52. Definitions

23 §801.53. Prohibition against Directly Delivering Services

24 §801.54. Board Contracting Guidelines

25 §801.55. Employment of Former Board Employees by Workforce Service Contractors

26 §801.56. Enforcement

27

28 These sections have been incorporated into new Chapter 802, a separate, but concurrent,

29 rulemaking proposal that groups together common rules that address the integrity of the

30 workforce system.

31

32

33 **PART III. IMPACT STATEMENTS**

34 Randy Townsend, Chief Financial Officer, has determined that for each year of the first five

35 years the rules will be in effect, the following statements will apply:

36

37 There are no additional estimated costs to the state and local governments expected as a result of

38 enforcing or administering the rules.

39

40 There are no estimated reductions in costs to the state and to local governments as a result of

41 enforcing or administering the rules.

42

43 There are no estimated losses in revenue to the state or to local governments as a result of

44 enforcing or administering the rules.

45

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

3
4 There are no anticipated economic costs to persons required to comply with the rules.

5
6 There is no anticipated adverse economic impact on small or microbusinesses as a result of
7 enforcing or administering the rules because small or microbusinesses are not regulated or
8 otherwise affected by the rules.

9
10 **Economic Impact Statement and Regulatory Flexibility Analysis**

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

13
14 The reasoning for these conclusions is as follows:

15 --Updates of definitions and statutory references in Subchapters A and B are not substantive.

16 --These rules are proposing that the Agency's responsibility for review and certification of Board
17 satisfaction of minimum standards and compliance regarding services available at Workforce
18 Solutions Offices be transferred to Boards. Agency staff reports that associated Agency
19 activities would evolve from the Workforce Network Support Department to the Subrecipient
20 Monitoring Department, and that no significant change in cost would result, and also that Boards
21 already are actively engaged in similar activities, and that it is not likely that Board levels of
22 activity in this function would stand to significantly increase as a result.

23 --The impact of repeal of parts of Subchapters A and B of Chapter 801, and all of Subchapter C,
24 with the intention of including the substance of these sections in a new Chapter 802 will be
25 assessed and evaluated in the review of the new Chapter 802.

26
27 Rich Froeschle, Director of Labor Market and Career Information, has determined that there is
28 no significant negative impact upon employment conditions in the state as a result of the rules.

29
30 Laurence M. Jones, Director, Workforce Development Division, has determined that for each
31 year of the first five years the rules are in effect, the public benefit anticipated as a result of
32 enforcing the proposed rules will be simplified and clarified rule language; updated terminology
33 and definitions; and the removal of obsolete provisions.

34
35 The Agency hereby certifies that the proposal has been reviewed by legal counsel and found to
36 be within the Agency's legal authority to adopt.

37
38
39 **PART IV. COORDINATION ACTIVITIES**

40 In the development of these rules for publication and public comment, the Commission sought
41 the involvement of Texas's 28 Boards. The Commission provided the concept paper regarding
42 these rule amendments to the Boards for consideration and review on April 27, 2010. The
43 Commission also conducted a conference call with Board executive directors and Board staff on
44 April 30, 2010, to discuss the concept paper. During the rulemaking process, the Commission
45 considered all information gathered in order to develop rules that provide clear and concise
46 direction to all parties involved.

1
2 Comments on the proposed rules may be submitted to TWC Policy Comments, Workforce
3 Policy and Service Delivery, attn: Workforce Editing, 101 East 15th Street, Room 440T, Austin,
4 Texas 78778; faxed to (512) 475-3577; or e-mailed to TWCPolicyComments@twc.state.tx.us.
5 The Commission must receive comments postmarked no later than 30 days from the date this
6 proposal is published in the *Texas Register*.

7
8 The rules are proposed under Texas Labor Code §301.0015 and §302.002(d), which provide the
9 Texas Workforce Commission with the authority to adopt, amend, or repeal such rules as it
10 deems necessary for the effective administration of Agency services and activities.

11
12 The proposed rules affect Texas Labor Code, particularly Chapters 301 and 302, as well as Texas
13 Government Code, Chapter 2308.

14
15

1 **CHAPTER 801. LOCAL WORKFORCE DEVELOPMENT BOARDS**

2
3 **SUBCHAPTER A. GENERAL PROVISIONS**

4
5 **§801.1. Requirements for Formation of Local Workforce Development Boards.**

6
7 (a) Purpose of Rule.

8
9 (1) Upon application by the chief elected officials (CEOs) and approval of the
10 Commission, the Commission shall forward an application to form a Local
11 Workforce Development Board (Board) to the Governor.

12
13 (2) Before an application may be submitted to the Governor, all requirements of
14 this section shall be met.

15
16 (b) State Law. The formation of Boards is governed by the [Workforce Investment](#)
17 Act ~~Workforce and Economic Competitiveness Act~~, Texas Government Code,
18 Chapter 2308.

19
20 (c) Chief Elected Official Agreement. Creation of a Board requires agreement by at least
21 three-fourths of the CEOs in the local workforce development area (workforce area)
22 who represent units of general local government, including all of the CEOs who
23 represent units of general local government having populations of at least 200,000.
24 The elected officials agreeing to the creation of the Board shall represent at least 75
25 percent% of the population of the workforce area.

26
27 (d) Chief Elected Officials. The CEOs may, and are encouraged to, consult with local
28 officials other than the ones delineated below. The following officials are designated
29 as the CEOs for the purpose of establishing agreements to form Boards:

30
31 (1) Mayors.

32 (A) The mayor of each city with a population of at least 100,000;

33 (B) or, if there is no city with a population of greater than 100,000, the
34 mayor of each city with a population greater than 50,000;

35 (C) or, if there are no cities with a population of greater than 50,000, the
36 mayor of the largest city in the workforce area.

37
38 (D) For purposes of this section, municipal population will be determined by
39 the figure last reported by the Texas State Data Center at the time of
40 submission of the application to the Commission.

41
42 (2) All county judges included in a workforce area as designated by the Governor.
43
44
45
46

- 1 (e) Time of Application. CEOs in a workforce area may not establish a Board until the
2 Governor has designated that area as a workforce area as provided in the [Workforce](#)
3 [Investment Act](#)~~Workforce and Economic Competitiveness Act~~, Texas Government
4 Code, Chapter 2308.
5
- 6 (f) Applications shall meet all Governor-approved criteria for the establishment of
7 Boards.
8
- 9 (g) Procedures for Formation of a Board. The CEOs shall comply with the following
10 procedures to form a Board.
11
- 12 (1) Public process procedure. If three-fourths of the CEOs, as defined in
13 subsection (d) of this section, agree to initiate procedures to establish a Board,
14 they shall conduct a public process, including at least one public meeting, to
15 consider the views of all affected organizations before making a final decision
16 to form a Board. This public process may include, but is not limited to, notices
17 published in various media and surveys for public comment.
18
- 19 (2) Application procedure.
20
- 21 (A) The CEOs shall submit an application to the Commission. This
22 application shall include evidence of the actions required by paragraph
23 (1) of this subsection. As a part of the application, each [CEO of the](#)
24 ~~CEOs~~, who is in agreement regarding the formation of a Board, shall
25 execute the following documents:
26
- 27 (i) An interlocal agreement delineating:
28
- 29 (I) The purpose of the agreement;
30
- 31 (II) The process that will be used to select the CEO who will act
32 on behalf of the other CEOs and the name of such CEO if
33 the person has been selected;
34
- 35 (III) The procedure that will be followed to keep those CEOs
36 informed regarding Board activities;
37
- 38 (IV) The initial size of the Board;
39
- 40 (V) How resources allocated to the workforce area will be
41 shared among the parties to the agreement;
42
- 43 (VI) The process to be used to appoint the Board members,
44 which shall be consistent with applicable federal and state
45 laws; and
46

1 (VII) The terms of office of the members of the Board.
2

3 (ii) An acknowledgment in the following form: We, the chief elected
4 officials of the (Name) Workforce Development Area,
5 acknowledge that the following are responsibilities and
6 requirements pursuant to the formation of the Board:
7

8 (I) The Board will assume the responsibilities for the following
9 committees and councils that will be replaced by the Board
10 unless otherwise provided in Texas Government Code,
11 Chapter 2308: private industry council, quality workforce
12 planning committee, job service employer committee, and
13 local general vocational program advisory committee;
14

15 (II) At least one Workforce Solutions Office ~~Texas Workforce~~
16 ~~Center~~ shall be established within 180 days of Board
17 certification;
18

19 (III) The Board shall have its own independent staff and not be a
20 provider of workforce services, unless the Board secures a
21 waiver of these provisions;
22

23 (IV) The CEOs shall enter into a partnership agreement with the
24 Board to designate a grant recipient to receive, be
25 accountable for, and be liable for any misuse of block grant
26 funds;
27

28 (V) The partnership agreement shall also specify the entity that
29 will administer the programs, which may be separate from
30 the entity that receives the funds from the state;
31

32 (VI) The partnership agreement shall define the process through
33 which the Boards and CEOs will develop the strategic and
34 operational plans, including the training plan required under
35 the Workforce Investment Act (WIA); and
36

37 (VII) The strategic plan shall be reviewed by both the
38 Commission and the Texas Workforce Investment Council
39 (TWIC), and approved by the Governor before block grants
40 will be available to the workforce area.
41

42 (B) The application shall include evidence that any affected existing Board
43 has been notified and agrees that its functions and responsibilities will be
44 assumed by the proposed Board upon the proposed Board's final
45 certification by the Governor.
46

- 1 (C) The application shall include the names and affiliations of individuals
2 recommended for Board membership, with documentation that CEOs
3 followed the nomination process specified in applicable state and federal
4 law, including Texas Government Code §2308.255 and §2308.256.
5
6 (i) Private sector members shall be owners of business concerns, chief
7 executives, chief operating officers of nongovernmental
8 employers, or other private sector executives who have substantial
9 management or policy responsibility. To be eligible to represent
10 the private sector, at least 51 ~~percent~~% of an individual's annual
11 income shall be from private sector sources.
12
13 (ii) Private sector membership should represent the composition of the
14 local pool of employers. The private sector membership should
15 include representatives of the region's larger employers and
16 emerging growth industries. Primary consideration should be
17 given to private sector employers who do not directly provide
18 employment and workforce training services to the general public.
19 CEOs shall develop a profile of the workforce area's major
20 industries using locally obtained information and state-published
21 data. The Agency shall provide relevant labor market information,
22 including data that identifies employment trends, emerging high-
23 growth, high-demand industries, the size of local employers, and
24 other data needed to assist CEOs in developing the employer
25 profile. Documentation submitted with the application shall show
26 how the regional employer profile is reflected in the Board
27 membership.
28
29 (iii) Board membership shall include representatives of local organized
30 labor organizations, community-based organizations, educational
31 agencies, vocational rehabilitation agencies, public assistance
32 agencies, economic development agencies, the public employment
33 service, local literacy councils, and adult basic and continuing
34 education organizations as required by law.
35
36 (iv) Representatives of local organized labor organizations shall be
37 nominated by local labor federations unless no employees in the
38 workforce area are represented by such organizations, in which
39 case nominations may be made by other representatives of
40 employees. A labor federation is defined as an alliance of two or
41 more organized labor unions for the purpose of mutual support and
42 action.
43
44 (v) Board nominees shall be actively engaged in the organization,
45 enterprise, or field that they are nominated to represent. Board

1 nominees shall have an existing relationship with the workforce
2 area through residence or employment within the workforce area.

3
4 (vi) At least one of the members of a Board appointed under Texas
5 Government Code §2308.256(a) shall, in addition to the
6 qualifications required for the members under that subsection, have
7 expertise in child care or early childhood education.

8
9 (vii) At least one of the members of a Board appointed under Texas
10 Government Code §2308.256(a) shall, in addition to the
11 qualifications required for the members under that subsection:

12
13 (I) be a veteran as defined in Texas Government Code
14 §2308.251(2); and

15
16 (II) have an understanding of the needs of the local veterans'
17 population and willingness to represent the interests and
18 concerns of veterans.

19
20 (D) No individual member shall be a representative of more than one sector
21 or category described in this section, except as statutorily permitted for
22 one or more members having:

23
24 (i) expertise in child care or early childhood education; or

25
26 (ii) the qualifications set forth in subsection (g)(2)(C)(vii) of this
27 section.

28
29 (E) The application shall include documentary evidence substantiating
30 compliance with the application procedure, including but not limited to,
31 written agreements, minutes of public meetings, copies of
32 correspondence, and such other documentation as may be appropriate.

33
34 **~~§801.2. Waivers.~~**

35
36 ~~(a) Purpose of Rule. Texas Government Code §2308.264, §2308.267, and §2308.312 set~~
37 ~~forth prohibitions regarding service delivery, Board staffing, and developmental~~
38 ~~services. Only under circumstances that fit the criteria specified in those statutes will~~
39 ~~requests for waivers be granted.~~

40
41 ~~(b) Independent Service Delivery. A Board is prohibited from directly providing~~
42 ~~workforce training and services, including operational functions normally associated~~
43 ~~with such services such as intake, eligibility determination, assessment, and referral,~~
44 ~~unless a waiver is obtained.~~

1 ~~(c) Separate Staffing. Board staff shall be employed separately and independently of any~~
2 ~~person that provides workforce training and services, as described in subsection (b)~~
3 ~~of this section, unless the Board arranges for independent evaluation of any other~~
4 ~~workforce services provided by the staffing organization and obtains a waiver.~~
5

6 ~~(d) Developmental Services. A person who provides one-stop services at a Texas~~
7 ~~Workforce Center shall not also provide developmental services unless a waiver is~~
8 ~~obtained.~~
9

10 ~~(e) Requesting a Waiver.~~

11
12 ~~(1) Waiver requests shall be submitted to the Commission and contain detailed~~
13 ~~justification as specified in the respective statutes. The Commission shall~~
14 ~~review and forward a recommendation to TWIC for consideration. TWIC will~~
15 ~~forward its recommendation to the Governor for approval.~~
16

17 ~~(2) In recommending action on such requests, the Commission shall apply only the~~
18 ~~criteria specified in the respective statutes.~~
19

20 ~~(3) The Commission may require a Board to submit documentation as set forth in~~
21 ~~Workforce Development Letters to support its waiver request.~~
22

23 ~~(f) Duration of Waiver.~~

24
25 ~~(1) A waiver may be granted for a period less than, but not to exceed, the effective~~
26 ~~term of an approved plan and budget.~~
27

28 ~~(2) A waiver may be conditioned upon the Board's completion of steps taken to~~
29 ~~eliminate the need for a waiver.~~
30

31
32 **~~§801.13. Board Member Conflicts of Interest.~~**
33

34 ~~(a) Pursuant to WIA § 117(g) (29 U.S.C.A. §2832(g)), this section sets forth the state's~~
35 ~~Board conflict of interest requirements for disclosure and declaration of a conflict of~~
36 ~~interest by a Board member.~~
37

38 ~~(b) A Board member may not vote on any matter that would provide direct financial~~
39 ~~benefit to the member or the member's immediate family, nor on matters of the~~
40 ~~provision of services by the member or the entity the member represents. No Board~~
41 ~~member may participate in a decision in which the member has a direct or indirect~~
42 ~~interest, particularly a financial interest, which is in substantial conflict with the~~
43 ~~discharge of the duties of the Board.~~
44

45 ~~(c) A Board member shall avoid even the appearance of a conflict of interest. Prior to~~
46 ~~taking office, Board members must provide to the Board Chair a written declaration~~

1 ~~of all substantial business interests or relationships they, or their immediate families,~~
2 ~~have with all businesses or organizations which have received, currently receive, or~~
3 ~~are likely to receive contracts or funding from the Board. Such declarations shall be~~
4 ~~updated within 30 days to reflect any changes in such business interests or~~
5 ~~relationships. The Board shall appoint an individual to timely review the disclosure~~
6 ~~information and advise the Board Chair and appropriate members of potential~~
7 ~~conflicts.~~

8
9 ~~(d) Prior to a discussion, vote or decision on any matter before a Board, if a member, or~~
10 ~~a person in the immediate family of such member, has a substantial interest in or~~
11 ~~relationship to a business entity, organization or property that would be pecuniarily~~
12 ~~affected by any official Board action, that member shall disclose the nature and~~
13 ~~extent of the interest or relationship and shall abstain from voting on or in any other~~
14 ~~way participating in the decision on the matter. All such abstentions shall be~~
15 ~~recorded in the minutes of the Board meeting.~~

16
17 ~~(e) Each Board must include in its organizational plan or bylaws, or in a separate code~~
18 ~~of conduct, provisions for penalties, sanctions or other disciplinary actions for any~~
19 ~~direct violations of the Board conflict of interest policy. The following definitions~~
20 ~~must be incorporated into those provisions.~~

21
22 ~~(1) Immediate family—Any person related within the first degree of affinity~~
23 ~~(marriage) or consanguinity (blood) to the person involved.~~

24
25 ~~(2) Substantial interest—A person has a substantial interest:~~

26
27 ~~(A) in a business entity if:~~

28
29 ~~(i) the person owns 10% or more of the voting stock or shares of the~~
30 ~~business, owns 10% or more, or owns \$5,000 or more, of the fair~~
31 ~~market value of a business; or~~

32
33 ~~(ii) funds received by the person from the business exceed 10% of the~~
34 ~~person's gross income for the previous year;~~

35
36 ~~(B) in real property if the interest is an equitable or legal ownership with a~~
37 ~~fair market value of \$2,500 or more; or~~

38
39 ~~(C) if the Board member is related to a person in the first degree of affinity~~
40 ~~or consanguinity who has a substantial interest as defined in~~
41 ~~subparagraph (A) or (B) of this paragraph.~~

1
2 **§801.16. Partnership Agreement ~~for Local Procedures~~.**
3

- 4 (a) The CEOs in a workforce area shall enter into a an Partnership Agreement ~~for Local~~
5 ~~Procedures~~ with the Board as required by Texas Government Code §2308.253(g) and
6 by §801.1(g)(2)(A)(i)(I) - (VI) of this subchapter.
7
- 8 (b) The Partnership Agreement ~~for Local Procedures~~ shall be signed by the current
9 CEOs and the Board Chair.
10
- 11 (c) Any amendment to a Partnership Agreement ~~an Agreement for Local Procedures~~,
12 change to a Board's organizational plan or bylaws, or notice of an election of a new
13 CEO or Board Chair shall be submitted to the Agency within 15 calendar days of the
14 adoption of such amendment, change, or election.
15
- 16 (d) If a CEO or Board Chair is newly elected during the then-current, two-year program
17 planning cycle, such newly elected individual shall submit to the Agency a written
18 statement acknowledging that he or she:
19
- 20 (1) has read, understands, and will comply with the current Partnership Agreement
21 ~~for Local Procedures~~; and
22
- 23 (2) reserves the option to request negotiations to amend the Partnership Agreement
24 ~~for Local Procedures~~ at any time during the official's tenure as CEO or Board
25 Chair.
26
- 27 (e) All Partnership Agreements ~~for Local Procedures~~ and Board organizational plans or
28 bylaws shall state that Board members will not be permitted to delegate any Board
29 duties to proxies or alternates.
30
31

32 **SUBCHAPTER B. ONE-STOP SERVICE DELIVERY NETWORK**
33

34 **§801.21. Scope and Purpose.**
35

- 36 (a) The purpose of this subchapter is to set forth the rules relating to the One-Stop
37 Service Delivery Network as set forth in Texas Government Code, Chapter 2308;
38 Texas Labor Code, Chapters 301 and 302; and WIA §121 (29 U.S.C.A. §2841). It is
39 the intent of the Commission, in partnership with Boards, to facilitate the
40 development and maintenance of the One-Stop Service Delivery Network such that
41 information and services responsive to individual needs are available to all
42 customers. The One-Stop Service Delivery Network shall be evaluated against
43 established levels of certification as well as any additional standards developed by
44 the Commission to ensure the continuous improvement of the system.
45

1 (b) The rules contained in this subchapter shall apply, except that to the extent of any
2 conflict, the provisions of Texas Government Code, Chapter 2308, 2803 and §802.21
3 (relating to Board Contracting Guidelines) and §802.44 (relating to Service Delivery
4 Waiver Requests) of this title, shall govern ~~§801.2 and §801.54 of this chapter shall~~
5 ~~govern.~~
6

7 **§801.22. Requirement to Maintain a One-Stop Service Delivery Network.**

8
9 Each Board shall maintain a One-Stop Service Delivery Network, consistent with WIA,
10 state law, and this subchapter. The One-Stop Service Delivery Network shall include at
11 least one Workforce Solutions Office ~~Certified Full Service Texas Workforce Center~~
12 providing the core services set forth in §801.28(a) of this subchapter.
13

14 **§801.23. Definitions.**

15
16 In addition to the definitions contained in §800.2 of this title, the following words or
17 terms shall have the following meanings, unless the context clearly indicates otherwise.
18

19 ~~(1) Certified Full Service Texas Workforce Center--A local full-service workforce~~
20 ~~center that has integrated service functions to aid employers and job-seekers in~~
21 ~~all aspects of employment and training in a seamless, nonprogram-specific~~
22 ~~manner, and has been found to meet the requirements of a Full Service Texas~~
23 ~~Workforce Center set out in §801.25(b) of this subchapter.~~

24
25 ~~(2) Certified Texas Workforce Center--A local workforce center that provides~~
26 ~~integrated services to aid employers and job-seekers in all aspects of~~
27 ~~employment and training in a seamless nonprogram-specific manner, and has~~
28 ~~been found to meet the requirements of a Certified Texas Workforce Center set~~
29 ~~out in §801.25(a) of this subchapter.~~

30
31 ~~(3) Competent--A federal or state-qualified veteran who meets the eligibility~~
32 ~~requirements of the program from which he or she is seeking services, and is~~
33 ~~determined eligible for a specific employment and training service funded by~~
34 ~~that program.~~

35
36 (1)~~(4)~~ Eligible Foster Youth--An eligible foster youth is a:

37
38 (A) Current Foster Youth--A youth, age 14 or older, who is receiving
39 substitute care services under the managing conservatorship of the Texas
40 Department of Family and Protective Services (DFPS). This includes
41 youth residing in private foster homes, group homes, residential
42 treatment centers, juvenile correctional institutions, and relative care; or
43

44 (B) Former Foster Youth--A youth up to 23 years of age, who formerly was
45 under the managing conservatorship of DFPS, until:
46

- (i) the conservatorship was transferred by a court;
- (ii) the youth was legally emancipated (i.e., the youth's minority status was removed by a court); or
- (iii) the youth attained 18 years of age.

(2) ~~(5)~~ Eligible Veteran--An eligible veteran is one of the following:

- (A) Federal/state qualified veteran--an individual who served in the active military, naval, or air service, and who was discharged or released from such service under conditions other than dishonorable as specified at 38 U.S.C. §101(2). Active service includes full-time duty in the National Guard or a Reserve component, other than full time for training purposes.
- (B) Federal qualified spouse--the spouse of one of the following:
 - (i) Any veteran who died of a service-connected disability.
 - (ii) Any member of the Armed Forces serving on active duty who, at the time of application for assistance under this section, is listed, pursuant to 37 U.S.C. §556 and regulations issued thereunder, by the Secretary concerned in one or more of the following categories and has been so listed for a total of more than 90 days:
 - (I) Missing in action;
 - (II) Captured in line of duty by a hostile force; or
 - (III) Forcibly detained or interned in line of duty by a foreign government or power.
 - (iii) Any veteran who has a total disability resulting from a service-connected disability as evaluated by the Department of Veterans Affairs.
 - (iv) Any veteran who died while a disability, as defined in clause (iii) of this subparagraph, was in existence.
- (C) State qualified spouse:
 - (i) A spouse who meets the definition of federal qualified spouse; or
 - (ii) A spouse of any member of the armed forces who died while serving on active military, naval, or air service.

1 ~~(3)(6)~~ National Emergency--A condition declared by the President by virtue of
2 powers previously vested in that office to authorize certain emergency actions
3 to be undertaken in the national interest pursuant to 50 U.S.C. §1621.

4
5 (4) Workforce Solutions Office--A local Workforce Solutions Office that provides
6 one or more services, as set out in §801.25 of this subchapter, to aid employers
7 and job seekers.

8
9 ~~§801.24. Texas Workforce Center Certification Levels.~~

10
11 ~~(a) All Texas Workforce Centers shall meet the basic workforce center standards set out~~
12 ~~in §801.25(a) of this subchapter.~~

13
14 ~~(b) In order to obtain certification as a Certified Full Service Texas Workforce Center, a~~
15 ~~Texas Workforce Center shall meet full service standards set out in §801.25(a) and~~
16 ~~§801.25(b) of this subchapter.~~

17
18 §801.24. Workforce Solutions Office Certification.

19
20 (a) All offices providing workforce services will be classified as Workforce Solutions
21 Offices.

22
23 (b) Boards shall ensure that at least one Workforce Solutions Office in the workforce
24 area provides on-site access to all services set forth in §801.25 of this subchapter.

25
26 (c) Certified Workforce Solutions Offices. As directed by the Commission, Boards shall
27 provide certification to the Commission for every Workforce Solutions Office that
28 provides on-site access to all services set forth in §801.25 of this subchapter.

29
30 (d) Other Workforce Solutions Offices. As directed by the Commission, Boards shall
31 notify the Commission of all on-site services available at any Workforce Solutions
32 Office that does not provide on-site access to all services set forth in §801.25 of this
33 subchapter.

34
35 (e) Boards shall notify the Commission, when a change occurs, of the requirements set
36 forth in subsections (c) and (d) of this section.

37
38 (f) The Commission shall verify compliance with the requirements set forth in
39 subsections (b) - (d) of this section through:

40
41 (1) issuance of Agency guidance;

42
43 (2) assurances set forth in Agency-Board agreements;

44
45 (3) annual monitoring reviews; and
46

1 (4) other means as identified by the Agency.

2
3 ~~§801.25. Texas Workforce Center Standards.~~

4
5 ~~(a) Basic Workforce Center Standards. The Commission has established basic standards~~
6 ~~that shall be met by all Texas Workforce Centers. Certified Texas Workforce~~
7 ~~Centers shall:~~

- 8
9 ~~(1) be available to employers, job seekers, and students throughout the workforce~~
10 ~~area;~~
- 11
12 ~~(2) provide access to information and services, including employment services,~~
13 ~~such as referring qualified job seekers to employer job postings;~~
- 14
15 ~~(3) address individual needs of customers by providing processes for basic or~~
16 ~~enhanced methods of accessing services;~~
- 17
18 ~~(4) provide services tailored to meet the needs of employers and job seekers and~~
19 ~~include: job screening and referral, labor market information, a common intake~~
20 ~~and eligibility determination process, an independent assessment and service~~
21 ~~strategy, centralized and continuous case management and counseling, access~~
22 ~~to Individual Training Account (ITA) services for education and training~~
23 ~~needs, support services (including access to subsidized child care), student~~
24 ~~loans, and other forms of financial assistance required to participate in and~~
25 ~~complete training;~~
- 26
27 ~~(5) ensure that developmental services, such as General Educational Development,~~
28 ~~English as a Second Language, or Basic Education Skills are not provided by~~
29 ~~Texas Workforce Center staff;~~
- 30
31 ~~(6) provide each customer with information on local high-growth, high-demand~~
32 ~~occupations and industries, projected wage level upon completion of training~~
33 ~~programs, and performance of training providers when requested;~~
- 34
35 ~~(7) implement a flexible and market-driven process for services;~~
- 36
37 ~~(8) ensure access throughout the workforce area by developing electronic methods~~
38 ~~for service delivery, such as the Internet;~~
- 39
40 ~~(9) ensure that staff is experienced and knowledgeable in all required services for~~
41 ~~employers and job seekers;~~
- 42
43 ~~(10) implement a tiered service delivery strategy that includes self-directed service,~~
44 ~~job search assistance in group settings, access to information on filing a claim~~
45 ~~for Unemployment Insurance benefits, and specialized, enhanced staff-assisted~~
46 ~~services;~~

- ~~(11) prepare and make available to customers understandable information packages that briefly describe services; locations; self-directed options; job openings; career exploration methods; labor market information; high-growth, high-demand job information; training and educational opportunities, and associated institutional performance information; and that also provide a mechanism for feedback on services provided;~~
- ~~(12) implement a timely and efficient referral and follow-up process for employment-related services;~~
- ~~(13) provide independent assessments of individual needs that include assessment of literacy levels for Choices customers;~~
- ~~(14) maintain a user-friendly resource center that makes available computerized information systems with access to labor market information, demographics, occupations, educational opportunities, and WorkInTexas.com, the statewide job matching system;~~
- ~~(15) administer services, as set forth in §801.28(a), of the following programs: WIA Adults, Dislocated Workers, and Youth; Food Stamp Employment and Training (FSE&T); Temporary Assistance for Needy Families (TANF) Choices; access to subsidized child care services; Wagner-Peyser Employment Service (ES); Trade Adjustment Assistance (TAA); and Project Reintegration of Offenders (Project RIO). Boards shall ensure that staff is available to provide these services during all Texas Workforce Center operating hours;~~
- ~~(16) provide access to services, as set forth in §801.28(a), of the following programs: veterans' employment and training; Adult Basic Education; National Literacy Act; noncertificate, postsecondary career and technology training; Senior Community Service Employment Program; Apprenticeship Training Program; National and Community Service Act; and Unemployment Insurance;~~
- ~~(17) ensure availability through the Texas Workforce Centers of other services for the programs listed in paragraph (15) of this section;~~
- ~~(18) provide reasonable accommodation and accessibility in accordance with the Americans with Disabilities Act;~~
- ~~(19) ensure that federal qualified veterans and qualified spouses, and state-qualified veterans, receive priority as set forth in §801.31 of this subchapter;~~
- ~~(20) ensure that eligible foster youth receive priority as set forth in §801.31 of this subchapter;~~

1
2 ~~(21) comply with the provisions of the memorandum of understanding between the~~
3 ~~Board and DFPS to further the objectives of the Preparation for Adult Living~~
4 ~~program, as required by Texas Family Code §264.121; and~~
5

6 ~~(22) meet each of the requirements for Certified Full-Service Texas Workforce~~
7 ~~Centers within twelve months of certification as a Texas Workforce Center.~~
8

9 ~~(b) Full-Service Standards. The Commission has established specific standards for a~~
10 ~~Texas Workforce Center to receive full-service certification. A Certified Full-~~
11 ~~Service Texas Workforce Center shall meet each of the following requirements~~
12 ~~within twelve months of certification as a Texas Workforce Center. Certified Full-~~
13 ~~Service Texas Workforce Centers shall:~~
14

15 ~~(1) design a customer-friendly waiting area and implement written procedures that~~
16 ~~define the steps taken to minimize customer wait time in the reception area and~~
17 ~~in other areas of the Texas Workforce Center;~~
18

19 ~~(2) develop written procedures for following up on referrals to determine customer~~
20 ~~receipt of services, appropriateness of the referral to address the customer's~~
21 ~~needs, and the extent of customer satisfaction with the referral process and~~
22 ~~service received;~~
23

24 ~~(3) provide customer access to WorkInTexas.com; resume preparation tools,~~
25 ~~including software; and the Internet;~~
26

27 ~~(4) provide consumer information on the quality of education and training~~
28 ~~providers and include a mechanism for customer feedback on personal~~
29 ~~experience with such providers;~~
30

31 ~~(5) develop and display a menu of services with a corresponding fee schedule for~~
32 ~~services available at the Certified Full-Service Texas Workforce Center;~~
33

34 ~~(6) demonstrate on-site management of all personnel, a plan for cross-training staff~~
35 ~~in all services, minimal programmatic specialization of staff, nonduplication of~~
36 ~~efforts, removal of redundancies within program activities, and maximum~~
37 ~~flexibility to optimize utilization of resources;~~
38

39 ~~(7) provide basic labor exchange services, including access to job orders for~~
40 ~~applicants, access to applicants for employers, and screening and referral~~
41 ~~methods for matching appropriate applicants and job orders; and~~
42

43 ~~(8) provide centralized case management activities for specialized populations,~~
44 ~~such as the welfare, veterans, dislocated workers, and disabled populations.~~
45

46 **§801.25. Minimum Standards for Certified Workforce Solutions Offices.**

1
2 (a) Boards shall ensure that each Workforce Solutions Office:

3
4 (1) provides basic labor exchange services, including access to job orders for
5 applicants, access to applicants for employers, and screening and referral
6 methods for matching qualified applicants and job orders;

7
8 (2) provides services, as set forth in §801.28(a), of the following programs: WIA
9 adults, dislocated workers, and youth; Supplemental Nutrition Assistance
10 Program Employment and Training (SNAP E&T); Temporary Assistance for
11 Needy Families (TANF) Choices; access to subsidized child care services;
12 Wagner-Peyser Employment Service (ES); Trade Adjustment Assistance
13 (TAA); and Project Reintegration of Offenders (Project RIO). Boards shall
14 ensure that Workforce Solutions Offices' staff is available to provide these
15 services during all Workforce Solutions Offices' operating hours;

16
17 (3) provides access to information and services available in the workforce area; and

18
19 (4) addresses the individual needs of employers and job seekers.

20
21 (b) Boards shall ensure that the services provided by each Workforce Solutions Office,
22 as set forth in Texas Government Code, Chapter 2308, include:

23
24 (1) labor market information, including:

25
26 (A) available job openings; and

27
28 (B) education and training opportunities;

29
30 (2) uniform eligibility requirements and application procedures for all workforce
31 training and services;

32
33 (3) assistance to unemployment insurance (UI) claimants;

34
35 (4) independent assessment of individual needs and the development of an
36 employment plan;

37
38 (5) centralized and continuous case management and counseling;

39
40 (6) individual referral for services, including basic education, classroom skills
41 training, on-the-job training, and customized training;

42
43 (7) support services, including child care assistance, student loans, and other forms
44 of financial assistance required to participate in and complete training; and

45
46 (8) job training and employment assistance for persons formerly sentenced to the

1 Texas Department of Criminal Justice's institutional division or state jail
2 division, provided in cooperation with Project RIO.

3
4 (c) Boards shall ensure that each Workforce Solutions Office complies with the
5 following Commission-established standards:

6
7 (1) Provides customer access to WorkInTexas.com; résumé preparation tools,
8 including software; and Internet access;

9
10 (2) Ensures eligible foster youth are given access to workforce services to help
11 meet their employment, education, and training needs to transition to
12 independent living, as set forth in Texas Family Code §264.121;

13
14 (3) Provides each customer with information on local high-growth, high-demand
15 occupations and industries, projected wage level upon completion of training
16 programs, and performance of training providers when requested;

17
18 (4) Ensures that Workforce Solutions Offices' staff is trained and knowledgeable
19 in order to provide services to employers and job seekers;

20
21 (5) Demonstrates on-site management of all personnel, a plan for cross-training
22 staff in all services, minimal programmatic specialization of staff, removal of
23 redundancies within program activities, and maximum flexibility to optimize
24 use of resources;

25
26 (6) Designs a customer-friendly waiting area and implements written procedures
27 that define the steps taken to minimize customer wait time in the reception area
28 and in other areas of Workforce Solutions Offices; and

29
30 (7) Provides consumer information on the quality of education and training
31 providers and includes a mechanism for customer feedback on personal
32 experience with such providers.

33
34 (d) Boards must ensure that, if a Workforce Solutions Office does not provide all
35 services and programs on-site as specified in subsections (b) and (c) of this section,
36 electronic access to such services is provided, for example, by making access
37 available through computer applications or by telephone conferencing.

38
39 (e) Boards must ensure that only Workforce Solutions Office partners provide
40 developmental services, such as General Educational Development, English as a
41 Second Language, or basic education skills.

42
43 **§801.27. Workforce Solutions Office~~Texas Workforce Center~~ Partners.**

44
45 (a) Each Board shall maintain one or more memorandum of understanding that sets out
46 the obligations of the Board and each partner in the operation of the One-Stop

1 Service Delivery Network in the workforce area. Each Board shall obtain a general
2 authorization from the CEOs for actions taken under this subsection.
3

- 4 (b) Subject to the limitations referenced in §801.29 of this subchapter, relating to
5 Limitations on Delivery of Services, the required [Workforce Solutions Office Texas](#)
6 ~~Workforce Center~~ Partners are the entities that administer the following services in
7 the workforce areas:

8 ~~(1) WIA Adults, Dislocated Workers, and Youth;~~

9
10 ~~(2) FSE&T;~~

11
12 ~~(3) TANF Choices;~~

13
14 ~~(4) subsidized child care;~~

15
16 ~~(5) Wagner Peyser ES;~~

17
18 ~~(6) TAA;~~

19
20 ~~(1)(7)~~ veterans' employment and training;

21
22 ~~(2)(8)~~ Adult Basic Education;

23
24 ~~(3)(9)~~ National Literacy Act;

25
26 ~~(4)(10)~~ noncertificate, postsecondary career and technology training;

27
28 ~~(5)(11)~~ Senior Community Service Employment Program;

29
30 ~~(6)(12)~~ Apprenticeship Training Program; [and](#)

31
32 ~~(7)(13)~~ National and Community Service Act.;

33
34 ~~(14) Project RIO; and~~

35
36 ~~(15) Unemployment Insurance.~~

37
38 **§801.28. Services Available through the One-Stop Service Delivery Network.**
39

- 40 (a) Core Services. All [Workforce Solutions Offices](#) ~~Certified Texas Workforce Centers~~
41 shall provide access to core services, as defined in WIA §134(d)(2) (29 U.S.C.A.
42 §2864 (d)(2)) and Texas Government Code, Chapter 2308, including:

43
44 (1) outreach;
45

- 1 (2) intake, which may include reemployment services, and orientation to the
2 information and services available through the One-Stop Service Delivery
3 Network;
- 4 (3) determinations of individuals' eligibility for programs funded through the
5 Commission that are available through the One-Stop Service Delivery
6 Network;
- 7 (4) initial assessment of skill levels, aptitudes, abilities, and support service needs;
- 8 (5) job search and placement assistance and, where appropriate, career counseling;
- 9 (6) provision of performance information and program cost information on eligible
10 providers of training services as described in §§841.31 - 841.47 of this title
11 (relating to Training Provider Certification), provided by program, and eligible
12 providers of youth activities described in WIA §123 (29 U.S.C.A. §2843),
13 providers of adult education described in Title II of WIA, providers of
14 postsecondary vocational education activities and vocational education
15 activities available to school dropouts under the Carl D. Perkins Vocational
16 and Applied Technology Education Act (20 U.S.C.A. §2301 et seq.), and
17 providers of vocational rehabilitation program activities described in Title I of
18 the Rehabilitation Act of 1973 (29 U.S.C.A. §720 et seq.);
- 19 (7) provision of information regarding how the workforce area is performing on
20 the local performance measures and any additional performance information
21 with respect to the One-Stop Service Delivery Network in the workforce area;
- 22 (8) provision of information regarding filing claims for [UI Unemployment](#)
23 [Insurance](#);
- 24 (9) provision of employment statistics information, including the provision of
25 accurate information relating to local, regional, and national labor market
26 areas, including job vacancy listings in such labor market areas, information on
27 job skills necessary to obtain the jobs listed, and information related to local
28 high-growth, high-demand jobs and the earnings and skill requirements for
29 such jobs;
- 30 (10) provision of accurate information relating to the availability of support
31 services, including child care and transportation, available in the workforce
32 area, and referral to such services, as appropriate;
- 33 (11) assistance in establishing eligibility for Choices, [SNAP&T](#) [FSE&T](#), and
34 programs of financial aid assistance for training and education that are
35 available in the workforce area; and
36
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1 (12) follow-up services, including counseling regarding the workplace, for youth
2 participants in WIA activities authorized under Chapter 841 of this title,
3 relating to WIA, who are placed in unsubsidized employment, for not less than
4 12 months after the first day of the employment, as appropriate.
5

6 (b) Intensive Services. A One-Stop Service Delivery Network shall provide access to
7 services as described in the Texas Government Code, Chapter 2308, and intensive
8 services as described in WIA § 134(d)(3) (29 U.S.C.A. § 2864(d)(3)), which may
9 include the following:
10

11 (1) comprehensive and specialized assessments of the skill levels and service
12 needs of job seekers, such as diagnostic testing and use of other assessment
13 tools, in-depth interviewing, and evaluation to identify employment barriers
14 and employment goals;
15

16 (2) development of an employment plan ~~Individual Employment Plan~~ and service
17 strategy to identify the employment goals, appropriate achievement objectives,
18 and appropriate combination of services for the participant to achieve
19 employment goals and objectives;
20

21 (3) group counseling;
22

23 (4) individual counseling and career planning;
24

25 (5) centralized and continuous case management; and
26

27 (6) short-term, work readiness ~~prevocational~~ services, including learning skills,
28 communication skills, interviewing skills, punctuality, personal maintenance
29 skills, and professional conduct to prepare individuals for unsubsidized
30 employment or training.
31

32 (c) Training Services. A One-Stop Service Delivery Network shall provide access to
33 training services as described in WIA § 134(d)(4) (29 U.S.C.A. § 2864(d)(4)) and
34 Texas Government Code, Chapter 2308. Training services may include the
35 following:
36

37 (1) high-growth, high-demand industry skills training, including training for
38 nontraditional employment;
39

40 (2) on-the-job training;
41

42 (3) programs that combine workplace training with related instruction;
43

44 (4) training programs operated by the private sector;
45

46 (5) skills upgrading and retraining;

- 1
2 (6) entrepreneurial training;
3
4 (7) job readiness training;
5
6 (8) referrals to Adult Basic Education and literacy activities in combination with
7 services with activities described in paragraphs (1) - (7) of this subsection; and
8
9 (9) customized training conducted with a commitment by an employer or group of
10 employers to employ an individual upon successful completion of training.
11

12 (d) Other Services and Activities. A One-Stop Service Delivery Network shall offer
13 access to all other permissible local employment and training activities included in
14 the local workforce development plan, which may include discretionary one-stop
15 activities, support services, and needs-related payments as set forth in WIA 134(e)
16 (29 U.S.C.A. §2864(e)).
17

18 ~~§801.31. Priority for Workforce Services.~~

19 ~~(a) Boards shall ensure that federal qualified veterans and qualified spouses, state~~
20 ~~qualified veterans, and eligible foster youth who are entitled to receive priority over~~
21 ~~all other equally qualified individuals in the receipt of workforce services are:~~

22
23 ~~(1) determined eligible for priority at the initial point of contact; and~~

24
25 ~~(2) notified of their entitlement to a priority.~~

26
27 ~~(b) Boards shall ensure that state qualified veterans receive priority over all other~~
28 ~~equally qualified individuals in the receipt of training or assistance under~~
29 ~~employment assistance or job training services funded in whole or in part by state~~
30 ~~funds in accordance with Texas Government Code §657.002(a).~~

31
32 ~~(c) Boards shall ensure that federal qualified veterans and qualified spouses, as defined~~
33 ~~in §801.23(4), continue to receive priority over all other equally qualified individuals~~
34 ~~in the receipt of services funded in whole or in part by the U.S. Department of Labor,~~
35 ~~in accordance with 38 U.S.C. §4215.~~

36
37 ~~(d) Boards shall ensure that eligible foster youth receive priority over all other equally~~
38 ~~qualified individuals except federal qualified veterans, qualified spouses, and state~~
39 ~~qualified veterans as defined in this chapter in the receipt of federal and state funded~~
40 ~~services.~~

41
42 §801.31. Priority for Workforce Services.

43
44 (a) Boards shall ensure that eligible veterans, as defined in §801.23(2) of this
45 subchapter, are identified at the initial point of entry into the workforce system and
46 informed of the following:

- 1
2 (1) Their right to priority of service;
3
4 (2) The full array of employment, training, and placement services available under
5 priority of service; and
6
7 (3) Any applicable eligibility requirements for those programs and services.

8
9 (b) Boards shall ensure that eligible foster youth, as defined in §801.23(1) of this
10 subchapter, are informed of the following:

- 11
12 (1) Their right to priority of service;
13
14 (2) The full array of employment, training, and placement services available under
15 priority of service; and
16
17 (3) Any applicable eligibility requirements for those programs and services.

18
19 (c) Boards shall ensure the following order of priority for workforce services is applied:

- 20
21 (1) Eligible veterans receive priority over all other equally qualified individuals in
22 the receipt of services funded in whole or in part by the U.S. Department of
23 Labor, in accordance with 38 U.S.C. §4215--except state qualified spouses,
24 who meet the criterion in §801.23(2)(C)(ii) of this subchapter.
25
26 (2) Eligible veterans receive priority over all other equally qualified individuals in
27 the receipt of services funded in whole or in part by state funds in accordance
28 with Texas Labor Code §302.152.
29
30 (3) Eligible foster youth receive priority over all other equally qualified
31 individuals--except eligible veterans as defined in this subchapter--in the
32 receipt of federal or state-funded services in accordance with Texas Family
33 Code §264.121(3).
34
35

36 ~~**SUBCHAPTER C. THE INTEGRITY OF THE TEXAS WORKFORCE SYSTEM**~~

37
38 ~~**§801.51. Purpose and General Provisions.**~~

- 39
40 ~~(a) The purpose of the rules contained in this subchapter is to implement Texas~~
41 ~~Government Code, §2308.264 and §2308.267, including provisions relating to~~
42 ~~directly delivering services, Board contracting guidelines, and other conflict of~~
43 ~~interest provisions.~~
44
45 ~~(b) It is the intent of the Commission that these rules strengthen the confidence of the~~
46 ~~public in the Texas workforce system.~~

1
2 ~~(c) A Board may set local policies that are more restrictive than those set forth in this~~
3 ~~subchapter.~~

4
5 ~~(d) A Board shall develop the policies and procedures required by this subchapter.~~

6
7 ~~(e) A Board member with an existing contract for workforce services shall comply with~~
8 ~~this subchapter no later than the earliest of the following:~~

9
10 ~~(1) the expiration of the contract;~~

11
12 ~~(2) the contract renewal date; or~~

13
14 ~~(3) the expiration of the Board member's term or the Board member's resignation.~~

15
16 ~~(f) Pursuant to Texas Government Code, Chapter 551 (Open Meetings Act), a Board~~
17 ~~shall:~~

18
19 ~~(1) post appropriate notice;~~

20
21 ~~(2) ensure that all public business or public policy over which the Board has~~
22 ~~supervision or control is discussed, considered, or acted upon during a properly~~
23 ~~posted and convened open meeting; and~~

24
25 ~~(3) prepare and retain minutes or tape recordings of each open meeting of the~~
26 ~~Board. The minutes shall:~~

27
28 ~~(A) state the subject of each deliberation; and~~

29
30 ~~(B) indicate each vote, order, decision, or other action taken.~~

31
32 **~~§801.52. Definitions.~~**

33
34 ~~The following words and terms, when used in this subchapter, shall have the following~~
35 ~~meaning, unless the context clearly indicates otherwise.~~

36
37 ~~(1) Appearance of a conflict of interest—A circumstance in which the action of a~~
38 ~~Board member, Board employee, workforce service contractor, or workforce~~
39 ~~service contractor employee in a decision-making position appears to be:~~

40
41 ~~(A) influenced by considerations of one or more of the following: gain to the~~
42 ~~person, entity, or organization for which the person has an employment~~
43 ~~interest, substantial financial interest, or other interest, whether direct or~~
44 ~~indirect (other than those consistent with the terms of the contract); or~~
45

1 ~~(B) motivated by design to gain improper influence over the Commission,~~
2 ~~the Agency, or the Board.~~

3
4 ~~(2) Board decision making position A position with a Local Workforce~~
5 ~~Development Board that has final decision making authority or final~~
6 ~~recommendation authority on matters that directly affect workforce service~~
7 ~~contractors. A Board decision making position is one that performs the~~
8 ~~function of a Board's executive director, deputy executive director, chief~~
9 ~~financial officer, lead contract manager, or lead contract monitor.~~

10
11 ~~(3) Conflict of interest A circumstance in which a Board employee, workforce~~
12 ~~service contractor, or workforce service contractor's employee is in a decision-~~
13 ~~making position and has a direct or indirect interest, particularly a substantial~~
14 ~~financial interest, that influences the individual's ability to perform job duties~~
15 ~~and fulfill responsibilities.~~

16
17 ~~(4) Particular matter A specific investigation, application, request for a ruling or~~
18 ~~determination, rule making proceeding, administrative proceeding, contract,~~
19 ~~claim, or judicial proceeding, or any other proceeding as defined in~~
20 ~~§572.054(h)(2), Texas Government Code.~~

21
22 ~~(5) Substantial financial interest An interest in a business entity in which a~~
23 ~~person:~~

24
25 ~~(A) owns 10% or more of the stock, shares, fair market value, or other~~
26 ~~interest in the business entity;~~

27
28 ~~(B) owns more than \$5,000 of the fair market value of the business entity;~~

29
30 ~~(C) owns real property if the interest is an equitable or legal ownership with~~
31 ~~a fair market value of \$2,500 or more used for the business entity;~~

32
33 ~~(D) receives funds from the business entity that exceed 10% of the person's~~
34 ~~gross income for the previous year;~~

35
36 ~~(E) is a compensated member of the board of directors or other governing~~
37 ~~board of the business entity;~~

38
39 ~~(F) serves as an elected officer of the business entity; or~~

40
41 ~~(G) is related to a person in the first degree by consanguinity or affinity, as~~
42 ~~determined under Chapter 573, Texas Government Code, who has a~~
43 ~~substantial financial interest in the business entity, as listed in~~
44 ~~subparagraphs (A) through (F) of this section. First degree of~~
45 ~~consanguinity or affinity means the person's parent, child, adopted child,~~
46 ~~or spouse.~~

1
2 ~~(6) Workforce service contractor—A business entity or person, except a state~~
3 ~~agency or an institution of higher education as defined in §61.003 of the Texas~~
4 ~~Education Code, that contracts with a Board to provide one or more of the~~
5 ~~workforce services listed in §801.28 of this chapter, which include core,~~
6 ~~intensive, training, and other support services such as child care and~~
7 ~~transportation.~~

8
9 ~~(7) Workforce service contractor employee in a decision-making position—A~~
10 ~~position with a workforce service contractor that includes the ability to commit~~
11 ~~or bind the contractor to a particular course of action with respect to carrying~~
12 ~~out the contractor's duties and activities under the contract.~~

13
14 **~~§801.53. Prohibition against Directly Delivering Services.~~**

15
16 ~~(a) A Board shall ensure, through the oversight and management of Board policies, that~~
17 ~~it does not directly deliver or determine eligibility for workforce services in its local~~
18 ~~workforce development area (workforce area) or contract with the following persons~~
19 ~~or entities to deliver or determine eligibility for workforce services:~~

20
21 ~~(1) a Board member;~~

22
23 ~~(2) a business, organization, or institution that a Board member represents on the~~
24 ~~Board;~~

25
26 ~~(3) a Board member's business, organization, or institution in which a Board~~
27 ~~member has a substantial financial interest; or~~

28
29 ~~(4) a Board employee.~~

30
31 ~~(b) The prohibitions in this section do not apply to public education agencies, such as~~
32 ~~community colleges and independent school districts, that have Board members who~~
33 ~~fulfill the requirements set forth in Texas Government Code §2308.256(a)(3)(A).~~

34
35 ~~(c) A Board may grant a one-year exception to the prohibitions described in subsection~~
36 ~~(a) of this section for a community-based organization that fulfills the requirements~~
37 ~~set forth in Texas Government Code §2308.256(a)(2). The exception can only be~~
38 ~~granted by a two-thirds vote of the members present in an open meeting and may not~~
39 ~~be granted for contracts for the operation of Texas Workforce Centers.~~

40
41 ~~(d) A Board shall ensure that the Board, its members, or its employees do not directly~~
42 ~~control the daily activities of its workforce service contractors. The Agency shall~~
43 ~~review a Board's compliance through an examination of the Board's exercise of~~
44 ~~direction and control over its workforce service contractors. The Agency may use~~
45 ~~the factors for testing the employment status as set out in §821.5 of this title.~~
46

1 ~~(e) Nothing in this section restricts a Board member or a Board member's organization~~
2 ~~from receiving Texas workforce system services and thereby being a customer of a~~
3 ~~Board's workforce service contractors' services.~~

4
5 **~~§801.54. Board Contracting Guidelines.~~**

6
7 ~~(a) Fiscal Integrity Provisions.~~

8
9 ~~(1) A Board shall develop fiscal integrity evaluation indicators designed to~~
10 ~~appraise the fiscal integrity of its workforce service contractors.~~

11
12 ~~(2) A Board shall assess its workforce service contractors to ensure the contractors~~
13 ~~meet the requirements of the Board's fiscal integrity evaluation based on the~~
14 ~~following schedule:~~

15
16 ~~(A) contracts under \$100,000 the fiscal indicators must be verified prior to~~
17 ~~the award of the contract and at each renewal of the contract;~~

18
19 ~~(B) contracts between \$100,000 and \$500,000 the fiscal indicators must be~~
20 ~~verified prior to the award of the contract, at each renewal of the~~
21 ~~contract, and not less than biennially; and~~

22
23 ~~(C) contracts over \$500,000 the fiscal indicators must be verified prior to~~
24 ~~the award of the contract, at each renewal of the contract, and not less~~
25 ~~than once annually.~~

26
27 ~~(3) The fiscal integrity evaluation shall include the following provisions for~~
28 ~~ensuring that workforce service contractors are meeting performance measures~~
29 ~~in compliance with requirements contained in:~~

30
31 ~~(A) federal and state statutes and regulations and directives of the~~
32 ~~Commission or Agency;~~

33
34 ~~(B) Office of Management and Budget (OMB) circulars applicable to the~~
35 ~~entity, such as OMB Circulars A-21, A-87, or A-122, and the Office of~~
36 ~~the Governor's *Uniform Grant Management Standards*; and~~

37
38 ~~(C) any other safeguards a Board has identified that are designed to ensure~~
39 ~~the proper and effective use of funds placed under the control of its~~
40 ~~workforce service contractors.~~

41
42 ~~(4) The fiscal integrity evaluation shall also include the review and consideration~~
43 ~~of the prospective or renewing workforce service contractor's prior three-year~~
44 ~~financial history before the Board awards or renews a workforce service~~
45 ~~contract. The review shall include any adverse judgments or findings, such as~~

1 ~~administrative audit findings; Commission, Agency, or Board monitor~~
2 ~~findings; or sanctions by a Board or court of law.~~

3
4 ~~(5) The fiscal integrity evaluation may include provisions such as accounting for~~
5 ~~program income in accordance with federal regulations, resolving questioned~~
6 ~~costs and the repayment of disallowed costs in a timely manner, and~~
7 ~~safeguarding fixed assets, as well as those referenced in the Texas Workforce~~
8 ~~Commission's Financial Manual for Grants and Contracts.~~

9
10 ~~(b) Bonding, Insurance, and Other Methods of Securing Funds to Cover Losses.~~

11
12 ~~(1) A Board shall ensure that at least 10% of the funds subject to the control of the~~
13 ~~workforce service contractors is protected through bonds, insurance, escrow~~
14 ~~accounts, cash on deposit, or other methods to secure the funds consistent with~~
15 ~~this subchapter. A Board and its workforce service contractors may, consistent~~
16 ~~with this section, use any method or combination of methods to meet this~~
17 ~~requirement. At the Board's discretion, the Board may pay for the bonding,~~
18 ~~insurance, or other protection methods or require its workforce service~~
19 ~~contractors, to the extent allowable under state and federal law, to pay for such~~
20 ~~protection.~~

21
22 ~~(2) In conducting the fiscal integrity evaluation required in this section, a Board~~
23 ~~may determine that more than 10% of the funds subject to the control of its~~
24 ~~workforce service contractors shall be secured through bonds, insurance,~~
25 ~~escrow accounts, or other methods consistent with this subchapter.~~

26
27 ~~(3) Escrow of funds may also be used to satisfy the requirements of §801.54(b)~~
28 ~~provided that:~~

29
30 ~~(A) the funds placed in escrow require the signature of persons other than the~~
31 ~~persons with signatory authority for the Board's workforce service~~
32 ~~contractors;~~

33
34 ~~(B) the funds do not lapse due to requirements for timely expenditure of~~
35 ~~funds; and~~

36
37 ~~(C) this provision does not conflict with any provision in contract, rule, or~~
38 ~~statute for the timely expenditure of funds.~~

39
40 ~~(4) If a bond is used, a Board shall ensure that the bond is executed by a corporate~~
41 ~~surety or sureties holding certificates of authority, authorized to do business in~~
42 ~~the state of Texas.~~

43
44 ~~(5) A Board shall ensure, based on the schedule referenced in §801.54(a)(2) of this~~
45 ~~section, that each of its workforce service contractors is required to verify that:~~
46

1 ~~(A) the insurance or bond policy is valid, premiums are paid to date, the~~
2 ~~company is authorized to provide the bonding or insurance, and the~~
3 ~~company is not in receivership, bankruptcy or some other status that~~
4 ~~would jeopardize the ability to draw upon the policy;~~

5
6 ~~(B) the escrow account balances are at an appropriate level;~~

7
8 ~~(C) the method of securing the funds has not been withdrawn, drawn upon,~~
9 ~~obligated for another purpose, or is no longer valid for use as the method~~
10 ~~of security; and~~

11
12 ~~(D) other such protections as are applicable and relied upon by the Board are~~
13 ~~verified as in force.~~

14
15 ~~(6) A Board shall ensure that the workforce service contractors are required to~~
16 ~~disclose any changes in and circumstances regarding the method of securing or~~
17 ~~protecting the funds under the workforce service contractors' control.~~

18
19 ~~(e) Standards of Conduct. A Board shall ensure that the workforce service contractors:~~

20
21 ~~(1) comply with federal and state statutes and regulations regarding standards of~~
22 ~~conduct and conflict of interest provisions including, but not limited to, the~~
23 ~~following:~~

24
25 ~~(A) 29 C.F.R. §97.36(b)(3), which includes requirements from the Uniform~~
26 ~~Administrative Requirements for Grants and Cooperative Agreements to~~
27 ~~State and Local Governments;~~

28
29 ~~(B) professional licensing requirements, when applicable; and~~

30
31 ~~(C) applicable OMB circular requirements and the Office of the Governor's~~
32 ~~*Uniform Grant Management Standards.*~~

33
34 ~~(2) avoid any conflict of interest or any appearance of a conflict of interest; and~~

35
36 ~~(3) refrain from using nonpublic information gained through a relationship with~~
37 ~~the Commission, an Agency employee, a Board, or a Board employee, to seek~~
38 ~~or obtain financial gains that would be a conflict of interest or the appearance~~
39 ~~of a conflict of interest.~~

40
41 ~~(d) Disclosures. A Board shall require its workforce service contractors to disclose the~~
42 ~~following:~~

43
44 ~~(1) Matters Subject to Disclosure. A Board shall ensure that its workforce service~~
45 ~~contractors promptly disclose in writing the following:~~

1 (A) ~~a substantial financial interest that the workforce service contractor, or~~
2 ~~any of its workforce service contractor employees in decision-making~~
3 ~~positions, have in a business entity that is a party to any business~~
4 ~~transaction with a Board member or Board employee who is in a Board~~
5 ~~decision-making position;~~

6
7 (B) ~~a gift greater than \$50 in value given to a Board member or Board~~
8 ~~employee by a workforce service contractor or its employees; and~~

9
10 (C) ~~the existence of any conflict of interest and any appearance of a conflict~~
11 ~~of interest, or the lack thereof.~~

12
13 (2) ~~Content of Disclosure. A Board shall ensure that its workforce service~~
14 ~~contractors' written disclosures contain the following:~~

15 (A) ~~information describing the conflict of interest; and~~

16
17 (B) ~~information describing the appearance of a conflict of interest, and~~
18 ~~actions the workforce service contractor and its employees will take in~~
19 ~~order to prevent any conflict of interest from occurring.~~

20
21 (3) ~~Frequency of Disclosure. A Board shall ensure that its workforce service~~
22 ~~contractors disclose:~~

23 (A) ~~at least annually, and as frequently as necessary, any conflict of interest~~
24 ~~and any appearance of a conflict of interest;~~

25 (B) ~~within 10 days of giving a gift greater than \$50 in value as referenced in~~
26 ~~this section; and~~

27 (C) ~~at least annually that no conflict of interest and no appearance of a~~
28 ~~conflict of interest exists.~~

29
30 (4) ~~Matters Not Subject to Disclosure. This provision does not apply to:~~

31 (A) ~~a financial transaction performed in the course of a contract with the~~
32 ~~Board; or~~

33 (B) ~~a transaction or benefit that is made available to the general public under~~
34 ~~the same terms and conditions.~~

35
36 **~~§801.55. Employment of Former Board Employees by Workforce Service Contractors.~~**

37 (a) ~~Post-Employment Restriction. In order to avoid a conflict of interest, a Board shall~~
38 ~~ensure that the Board's workforce service contractors shall not employ or otherwise~~
39 ~~compensate a former Board employee who:~~
40
41
42
43
44
45
46

1
2 ~~(1) was in a Board decision-making position as defined in §801.52 of this~~
3 ~~subchapter; and~~

4
5 ~~(2) was employed or compensated by the Board anytime during the previous 12~~
6 ~~months.~~

7
8 ~~(b) Exceptions. Where there is no actual conflict of interest, but there is an appearance~~
9 ~~of such a conflict, a Board in an open meeting may provide for an exception to the~~
10 ~~period described in subsection (a) of this section by a vote of two thirds of the~~
11 ~~membership present. In making such a determination, the Board shall assess all~~
12 ~~relevant factors, including but not limited to, whether there is a critical need for the~~
13 ~~skills involved, the relative cost and availability of alternatives, and the need to~~
14 ~~protect the integrity and stability of the Texas workforce system. In such an~~
15 ~~instance, the Board shall impose whatever terms and conditions it deems necessary~~
16 ~~to mitigate the appearance of a conflict of interest.~~

17
18 ~~(c) Corrective Actions. A Board shall ensure that its contracts with workforce service~~
19 ~~contractors require compliance with this section and provide effective enforcement~~
20 ~~mechanisms allowing it to impose corrective actions, up to and including contract~~
21 ~~termination, for violation of this section.~~

22
23 ~~(d) Particular Matter. A Board shall ensure that its workforce service contractors shall~~
24 ~~not employ or otherwise compensate a former Board employee to work on a~~
25 ~~particular matter that the employee worked on for the Board, as defined in §801.52~~
26 ~~of this subchapter. Nothing in this section shall prohibit a Board's workforce service~~
27 ~~contractor from employing or otherwise compensating a former employee of the~~
28 ~~Board who worked on a particular matter for the Board as long as the former Board~~
29 ~~employee never works on that same particular matter once employed or otherwise~~
30 ~~compensated by the Board's workforce service contractor.~~

31
32 **~~§801.56. Enforcement.~~**

33
34 ~~If a Board fails to adhere to the provisions of this subchapter, the Agency may impose~~
35 ~~corrective actions, up to and including sanctions.~~