

1 **Policy Concept**
2 **Chapter 800, General Administration, and Chapter 805, Adult Education and Literacy**
3 **Rule Project #2021-14-805 - AEL Rule Changes**
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5 **Introduction and Background**

6 Senate Bill 307, 83rd Texas Legislature, Regular Session (2013), transferred the Adult Education and
7 Family Literacy Act (AEFLA) program from the Texas Education Agency to the Texas Workforce
8 Commission (TWC). In the past seven years of analyzing programmatic, performance, and financial data
9 from AEFLA programs resulting from two statewide grant competitions, staff identified a need to
10 modify rule language in 40 TAC Chapters 800 and 805 to allow the Commission flexibility in
11 addressing deobligated grant funds and to provide AEFLA programs further clarification on program
12 requirements. Proposing amendments at this time will allow for the amended rules to be effective prior
13 to the next statewide AEFLA grant competition, which is scheduled for fall 2022.

14 **Purpose for the Proposed Rule**

15 The purpose for the proposed rule is to provide the Commission flexibility when deobligating Adult
16 Education and Literacy (AEL) statewide funds and considering an AEL grant recipient's performance
17 when reallocating deobligated funds. Additionally, the purpose of the proposed rule is to amend Chapter
18 805 to clarify professional development requirements, add a definition for "workforce preparation
19 activities," and give further information on the types of activities that must be provided by AEFLA-
20 funded programs.

21 **Rule Revisions Required by Federal Regulation or State Statute**

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23 **Issue #1: Digital Literacy Skills Requirement**

24 The General Appropriations Act (Senate Bill 1, Article VII, Texas Workforce Commission, Rider 46,
25 87th Legislature, Regular Session (2021)) requires TWC to ensure and require that digital skill building
26 is permitted in its programs. Staff identified the need to add terms and definitions for "digital literacy"
27 and "workforce preparation activities," as allowed by Workforce Innovation and Opportunity Act
28 (WIOA) Title II. As defined in WIOA Title II, "workforce preparation activities" expressly includes
29 enhancement of digital literacy skills as an allowable AEL activity.
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31 **Other Rule Revisions**

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33 **Issue #2: §800.78, Deobligation Rule**

34 Section 800.78 provides that the Commission may deobligate funds from an AEL grant recipient at the
35 end of months four to seven, or midyear. The Commission could amend this time frame to any time after
36 month four, thereby allowing TWC additional time to monitor and address concerns regarding
37 expenditure data and/or unforeseen challenges experienced by a grantee. The revision also removes
38 §800.78(d), as this rule is duplicative of what is outlined in §800.80(b).
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40 **Issue #3: §800.80. Reallocation of AEL Funds**

41 Section 800.80 provides the criteria that an AEL grant recipient must meet in order to receive
42 deobligated funds. The Commission could propose adding performance criteria, which is currently not
43 included in rule, for transparency of what will be considered when reallocating funds. Section 800.80
44 also provides that the Commission must approve an acceptable plan to reallocate deobligated funds and
45 the proposed rule change simplifies language granting the Commission authority to, when conditions are
46 appropriate, consider AEL grant recipients outside the workforce area.

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2 **Issue #4: §805.2. Definitions**

3 Section 805.2 provides the terms and definitions for AEFLA programs. Staff identified the need to
4 amend the definition of "AEL grant recipient" to refer to those awarded AEL funds through the
5 statewide procurement process. The definition for "professional development" currently states that
6 professional development must meet for a minimum of one hour and upwards in half-hour increments.
7 This language could be removed to provide flexibility in how professional development trainings may
8 count toward staff requirements. New terms "digital literacy" and "workforce preparation activities" are
9 added with the definitions in federal regulations. Digital literacy was also identified as a legislative
10 priority in the General Appropriations Act (Senate Bill 1, Article VII, Rider 46).

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12 **Issue #5: Clarifying Language**

13 Section 805.4, Essential Program Components, lists the required activities that an AEL grant recipient
14 must provide. Staff identified the need to clarify that the grant recipient must follow the requirements
15 outlined in the grant application for funds. Staff also identified the need to change "and" to "or" so that
16 TWC may create a grant application that may require some, but not all, of these activities as allowed by
17 AEFLA.

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19 Additionally, staff identified the need to clarify language in §805.21 related to what is meant by the
20 terms "instructional aides" and "non-instructional staff" as they relate to the professional development
21 requirements required of each position.

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23 Finally, staff identified the need to change the advisory membership term requirement in §805.43,
24 Advisory Committees, from "staggered two-year terms" to "two-year terms." Texas Labor Code,
25 §315.005(d) does not require staggered memberships for the AEL Advisory Committee.

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27 **PC Decision Point**

28 Staff recommends amending AEL rules in Chapter 800 and Chapter 805 to enhance the AEL statewide
29 system and grant the Commission flexibility in deobligating and reallocating grant funds.