

# ADOPTED RULES

Adopted rules include new rules, amendments to existing rules, and repeals of existing rules. A rule adopted by a state agency takes effect 20 days after the date on which it is filed with the Secretary of State unless a later date is required by statute or specified in the rule (Government Code, §2001.036). If a rule is adopted without change to the text of the proposed rule, then the *Texas Register* does not republish the rule text here. If a rule is adopted with change to the text of the proposed rule, then the final rule text is included here. The final rule text will appear in the Texas Administrative Code on the effective date.

## TITLE 10. COMMUNITY DEVELOPMENT

### PART 1. TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

#### CHAPTER 1. ADMINISTRATION

#### SUBCHAPTER D. UNIFORM GUIDANCE FOR RECIPIENTS OF FEDERAL AND STATE FUNDS

##### 10 TAC §§1.401 - 1.411

The Texas Department of Housing and Community Affairs (the Department) adopts the repeal of 10 TAC Chapter 1, Subchapter D, Uniform Guidance for Recipients of Federal and State Funds, including §§1.401 - §1.411, without changes to the text as published in the June 28, 2024, issue of the *Texas Register* (49 TexReg 4649). The rule will not be republished. The purpose of the repeal is to eliminate the outdated rule and replace it simultaneously with a new more germane rule.

Tex. Gov't Code §2001.0045(b) does not apply to the rule because it was determined that no costs are associated with this action, and therefore no costs warrant being offset.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

##### a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

Mr. Bobby Wilkinson has determined that, for the first five years the repeal would be in effect:

1. The repeal does not create or eliminate a government program but relates to changes to an existing activity: how state and federal requirements are applied to recipients of Department funds.
2. The repeal does not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce work load to a degree that eliminates any existing employee positions.
3. The repeal does not require additional future legislative appropriations.
4. The repeal will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The repeal is not creating a new regulation, except that it is being replaced by a new rule simultaneously to provide for revisions.
6. The repeal will not expand, limit, or repeal an existing regulation.

7. The repeal will not increase or decrease the number of individuals subject to the rule's applicability.

8. The repeal will not negatively or positively affect the state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.

The Department has evaluated the repeal and determined that the repeal will not create an economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The repeal does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the repeal as to its possible effects on local economies and has determined that for the first five years the repeal would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of the changed sections would be an updated and more germane rule. There will not be economic costs to individuals required to comply with the repealed section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the repeal is in effect, enforcing or administering the repeal does not have any foreseeable implications related to costs or revenues of the state or local governments.

SUMMARY OF PUBLIC COMMENT. The public comment period was held June 28, 2024 to July 28, 2024, to receive input on the proposed action. No comment on the repeal was received.

STATUTORY AUTHORITY. The repeal is made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules.

Except as described herein the repeal affects no other code, article, or statute.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 6, 2024.

TRD-202404197

Bobby Wilkinson  
Executive Director

Texas Department of Housing and Community Affairs

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For further information, please call: (512) 475-3959



## 10 TAC §§1.401 - 1.411

The Texas Department of Housing and Community Affairs (the Department) adopts, without changes to the text as published in the June 28, 2024, issue of the *Texas Register* (49 TexReg 4650), new 10 TAC Chapter 1, Subchapter D, Uniform Guidance for Recipients of Federal and State Funds, including §§1.401 - 1.411. The rules will not be republished. The purposes of the rule (or "new sections") are to reflect changes to federal regulations, make minor procedural revisions, remove the prior process for the Executive Award Review and Advisory Committee (EARAC), add clarification of when this rule is applicable to vendors, and make other applicable changes.

Tex. Gov't Code §2001.0045(b) does not apply to the rule because it was determined that no costs are associated with this action, and therefore no costs warrant being offset.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

### a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

Mr. Bobby Wilkinson has determined that, for the first five years the new sections would be in effect:

1. The new sections do not create or eliminate a government program but relates to updates to existing requirements for recipients of Department funds.
2. The new sections do not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce work load to a degree that eliminates any existing employee positions.
3. The new sections do not require additional future legislative appropriations.
4. The new sections will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The new sections are not creating a new regulation, except that they are replacing sections being repealed simultaneously to provide for revisions.
6. The new sections will not expand, limit, or repeal an existing regulation.
7. The new sections will not increase or decrease the number of individuals subject to the rule's applicability.
8. The new sections will not negatively or positively affect the state's economy.

### b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REG-

### ULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.

The Department has evaluated the new sections and determined that they will not create an economic effect on small or micro-businesses or rural communities.

### c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043.

The new sections do not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

### d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the new sections as to their possible effects on local economies and has determined that for the first five years the new sections would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

### e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5).

Mr. Wilkinson has determined that, for each year of the first five years the new sections are in effect, the public benefit anticipated as a result of the new sections would be a more current and germane rule. There will not be economic costs to individuals required to comply with the new sections.

### f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4).

Mr. Wilkinson also has determined that for each year of the first five years the new sections are in effect, enforcing or administering the sections does not have any foreseeable implications related to costs or revenues of the state or local governments.

**SUMMARY OF PUBLIC COMMENT.** The public comment period was held June 28, 2024, to July 29, 2024, to receive input on the proposed action. No comment was received.

**STATUTORY AUTHORITY.** The new sections are made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules.

Except as described herein the new sections affect no other code, article, or statute.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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Executive Director

Texas Department of Housing and Community Affairs

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## CHAPTER 8. PROJECT RENTAL ASSISTANCE PROGRAM RULE

### 10 TAC §8.6

The Texas Department of Housing and Community Affairs (the Department) adopts, without changes to the text as published in the June 28, 2024, issue of the *Texas Register* (49 TexReg 4657), amendments to 10 TAC Chapter 8, Project Rental Assistance Program Rule, §8.6, Program Regulations and Requirements. The rule will not be republished. The amendments will ensure the rule accurately reflects current Department processes that have been updated over time.

FISCAL NOTE. Mr. Bobby Wilkinson, Executive Director, has determined that, for each year of the first five years the amendment to the rule is in effect, enforcing or administering the amendment does not have any foreseeable implications related to costs or revenues of the state or local governments.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

1. Mr. Bobby Wilkinson, Executive Director, has determined that, for the first five years the rule action would be in effect, the actions do not create or eliminate a government program, but relate to changes to an existing activity, processes associated with the 811 PRA Program.

2. The amendment to the rule will not require a change in the number of employees of the Department;

3. The amendment to the rule will not require additional future legislative appropriations;

4. The amendment to the rule will result in neither an increase nor a decrease in fees paid to the Department;

5. The amendment to the rule will not create a new regulation, but merely revises a regulation to reference a new inspection protocol;

6. The amendment to the rule will not repeal an existing regulation;

7. The amendment to the rule will not increase or decrease the number of individuals subject to the rule's applicability; and

8. The amendment to the rule will neither positively nor negatively affect this state's economy.

PUBLIC BENEFIT/COST NOTE. Mr. Wilkinson also has determined that, for each year of the first five years the amendment to the rule is in effect, the public benefit anticipated as a result of the action will be the clarification of what inspection method may be used and what the cut-off score would be for the NSPIRE inspection. There will not be any economic cost to any individual required to comply with the amendment.

ADVERSE IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES. The Department has determined that there will be no economic effect on small or micro-businesses or rural communities.

SUMMARY OF PUBLIC COMMENT. Public comment was accepted from June 28, 2024 to July 28, 2024. No comment was received.

STATUTORY AUTHORITY. The amendment is made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules.

Except as described herein the amendment affects no other code, article, or statute.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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Executive Director

Texas Department of Housing and Community Affairs

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For further information, please call: (512) 475-3959



## TITLE 19. EDUCATION

### PART 2. TEXAS EDUCATION AGENCY

#### CHAPTER 101. ASSESSMENT

##### SUBCHAPTER A. COMMISSIONER'S RULES CONCERNING THE PARTICIPATION OF ENGLISH LANGUAGE LEARNERS IN STATE ASSESSMENTS

##### DIVISION 1. ASSESSMENTS OF ENGLISH LANGUAGE PROFICIENCY AND ACADEMIC CONTENT FOR ENGLISH LANGUAGE LEARNERS

##### 19 TAC §§101.1001, 101.1003, 101.1005, 101.1007

The Texas Education Agency adopts amendments to §§101.1001, 101.1003, 101.1005, and 101.1007, concerning the participation of English language learners in state assessments. The amendments are adopted without changes to the proposed text as published in the June 21, 2024 issue of the *Texas Register* (49 TexReg 4561) and will not be republished. The adopted amendments align the rules with existing state and federal policies regarding the assessment of emergent bilingual (EB) students.

REASONED JUSTIFICATION: The adopted amendments to 19 TAC Chapter 101, Subchapter AA, Division 1, align rules relating to the assessment of EB students with existing state and federal statute. Specifically, the adopted amendments replace all references to "English learner (EL)" or "English language learner (ELL)" with "emergent bilingual (EB) student," in accordance with Texas Education Code (TEC), §29.052.

Section 101.1001, Scope of Rules, defines which students the provisions of Division 1 of Chapter 101, Subchapter AA, apply to. The adopted amendment clarifies that the 60 consecutive days referenced in the rule are "calendar" days for assessment purposes.

Section 101.1003, English Language Proficiency Assessments, clarifies the definition of an EB student and the requirements for EB students to be tested for English language proficiency. The adopted amendment clarifies that EB students in Grades 2-12 must meet the participation requirements to be assessed with the alternate English language proficiency assessment.

Section 101.1005, Assessments of Achievement in Academic Content Areas and Courses, addresses the academic assessment participation requirements for EB students. The adopted amendment updates the rules regarding the assessment options currently available. Specifically, subsection (a) is updated to clarify that only EB students in Grade 3 or higher are eligible to participate in state academic assessments.

Section 101.1005(b) clarifies that EB students take the English-version state assessment, with or without allowable testing accommodations, unless the Spanish-version state assessment is more appropriate or the student meets the participation requirements for the alternate assessment. The phrase "with or without allowable testing accommodations" replaces references to the linguistically accommodated version of the assessment since a separate linguistically accommodated version has been replaced with an embedded supports or "accommodated" version. The alternate assessment in subsection (b)(3) is clarified and re-numbered as new paragraph (2).

Language in §101.1005 was eliminated to clarify that all EB students, including those whose parents or guardians decline bilingual services, have access to appropriate assessments and accommodations. Other language was removed since accountability information is no longer within the scope of assessment rules.

Section 101.1007, Assessment Provisions for Graduation, outlines the special provision for eligible EB students related to the use of the State of Texas Assessments of Academic Readiness (STAAR®) English I end-of-course assessment in satisfying high school graduation requirements. The adopted amendment updates the language to include "EB students."

**SUMMARY OF COMMENTS AND AGENCY RESPONSES:** The public comment period on the proposal began June 21, 2024, and ended July 22, 2024. Following is a summary of public comments received and agency responses.

**Comment:** One Texas teacher and one Texas administrator commented that the changes to the rule would discourage parents and guardians of EB students from accepting language services.

**Response:** The agency disagrees. Regardless of the changes, there are several benefits from participating in language services, including having the opportunity to receive the linguistic supports needed to access grade-level instruction and achieve academic English language proficiency.

**STATUTORY AUTHORITY.** The amendments are adopted under Texas Education Code, §39.023(a), (b), (c), and (l), which specify the required assessments for students in Grades 3-8, students who are significantly cognitively disabled, students enrolled in high school courses, and students whose primary language is Spanish, respectively; §39.023(m), which authorizes the commissioner of education to develop procedures for a language proficiency assessment committee to determine which students qualify for an exemption from the administration of required assessments; TEC, §39.025, which establishes the secondary-level performance required to receive a Texas high school diploma; TEC, §39.027, which establishes the parameters by which an Emergent Bilingual (EB) student may be granted an exemption from an assessment instrument, defines recent unschooled immigrants and an unschooled asylee or refugee, and authorizes the commissioner to develop an assessment system to evaluate the English language proficiency of all EB students; and the Elementary and Secondary Education Act of 1965, as amended by the Every Student

Succeeds Act, §1111(b)(2)(B) and (b)(2)(G), which specify the academic testing requirements for students in Grades 3-12 and the English language proficiency testing requirements for EB students in Kindergarten-Grade 12, respectively.

**CROSS REFERENCE TO STATUTE.** The amendments implement Texas Education Code, §§39.023, 39.025, and 39.027; and the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act, §1111(b)(2).

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 4, 2024.

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Texas Education Agency  
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## **TITLE 40. SOCIAL SERVICES AND ASSISTANCE**

### **PART 20. TEXAS WORKFORCE COMMISSION**

#### **CHAPTER 804. JOBS AND EDUCATION FOR TEXANS (JET) GRANT PROGRAM**

The Texas Workforce Commission (TWC) adopts amendments to the following sections of Chapter 804, relating to the Jobs and Education for Texans (JET) Grant Program:

Subchapter A. Definitions, §804.1

Subchapter B. Advisory Board Composition, Meeting Guidelines, §804.12 and §804.13

Subchapter C. Grant Program, §§804.21, 804.22, and 804.24

Subchapter D. Grants to Educational Institutions for Career and Technical Education Programs, §804.41

Amended §§804.1, 804.12, 804.13, 804.21, 804.22, 804.24, and 804.41 are adopted without changes to the proposal, as published in the July 5, 2024, issue of the *Texas Register* (49 TexReg 4895), and, therefore, the adopted rule text will not be republished.

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

The purpose of the Chapter 804 rule change is to ensure that this chapter aligns with terminology used in Texas Education Code, Chapter 134 and reflects updated program practices.

Texas Government Code §2001.039 requires a state agency to review and consider for re-adoption each of its rules every four years. In accordance with the statute, TWC has reviewed Chapter 804, Jobs and Education for Texans (JET) Grant Program, and proposes re-adoption of the rules as amended.

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

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

#### SUBCHAPTER A. DEFINITIONS

TWC adopts the following amendments to Subchapter A:

##### §804.1. Definitions

Section 804.1(5) is amended to change "Charter school" to "Open-enrollment charter school" to align with the terminology in Texas Education Code, Chapter 134. The paragraph is moved to retain alphabetical order and affected paragraphs are renumbered accordingly.

#### SUBCHAPTER B. ADVISORY BOARD COMPOSITION, MEETING GUIDELINES

TWC adopts the following amendments to Subchapter B:

##### §804.12. Meetings Required

Section 804.12(a) is amended to change "charter school" to "open-enrollment charter school" to align with the terminology in Texas Education Code, Chapter 134.

##### §804.13. General Advisory Board Responsibilities

Section 804.13(1) is amended to change "charter schools" to "open-enrollment charter schools" to align with the terminology in Texas Education Code, Chapter 134.

#### SUBCHAPTER C. GRANT PROGRAM

TWC adopts the following amendments to Subchapter C:

##### §804.21. General Statement of Purpose

Section 804.21 is amended to change "charter schools" to "open-enrollment charter schools" to align with the terminology in Texas Education Code, Chapter 134.

##### §804.22. Notice of Grant Availability and Application

Section 804.22 is amended to change the section name from "Notice of Grant Availability and Application" to "Grant Availability and Application."

Section 804.22 is amended to replace "Notice of Availability" with "request for applications" and remove the sentence, "The notice shall be published in the *Texas Register* and on the Agency's website." These changes more closely align the rule with statute and current program practices.

##### §804.24. Reporting Requirements

Section 804.24 is amended to change "charter schools" to "open-enrollment charter schools" to align with the terminology in Texas Education Code, Chapter 134.

#### SUBCHAPTER D. GRANTS TO EDUCATIONAL INSTITUTIONS FOR CAREER AND TECHNICAL EDUCATION PROGRAMS

TWC adopts the following amendments to Subchapter D:

##### §804.41. Grants for Career and Technical Education Programs

Section 804.41 has been amended to change "charter schools" to "open-enrollment charter schools" to better align with statute.

#### PART III. PUBLIC COMMENTS

The public comment period closed on August 5, 2024. No comments were received.

#### SUBCHAPTER A. DEFINITIONS

##### 40 TAC §804.1

#### PART IV. STATUTORY AUTHORITY

The rules are adopted under:

--Title 3, Texas Education Code, §134.008, which provides TWC with the specific authority to establish rules for the administration of the JET Grant Program; and

--Texas Labor Code §301.0015(a)(6) and §302.002(d), which provide TWC with the general authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of TWC services and activities.

The adopted rules relate to Title 3, Texas Education Code, particularly Chapter 134.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 3, 2024.

TRD-202404158

Les Trobman

General Counsel

Texas Workforce Commission

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For further information, please call: (512) 850-8356



#### SUBCHAPTER B. ADVISORY BOARD COMPOSITION, MEETING GUIDELINES

##### 40 TAC §804.12, §804.13

The rules are adopted under:

--Title 3, Texas Education Code, §134.008, which provides TWC with the specific authority to establish rules for the administration of the JET Grant Program; and

--Texas Labor Code §301.0015(a)(6) and §302.002(d), which provide TWC with the general authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of TWC services and activities.

The adopted rules relate to Title 3, Texas Education Code, particularly Chapter 134.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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## SUBCHAPTER C. GRANT PROGRAM

### 40 TAC §§804.21, 804.22, 804.24

The rules are adopted under:

--Title 3, Texas Education Code, §134.008, which provides TWC with the specific authority to establish rules for the administration of the JET Grant Program; and

--Texas Labor Code §301.0015(a)(6) and §302.002(d), which provide TWC with the general authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of TWC services and activities.

The adopted rules relate to Title 3, Texas Education Code, particularly Chapter 134.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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Les Trobman  
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## SUBCHAPTER D. GRANTS TO EDUCATIONAL INSTITUTIONS FOR CAREER AND TECHNICAL EDUCATION PROGRAMS

### 40 TAC §804.41

The rules are adopted under:

--Title 3, Texas Education Code, §134.008, which provides TWC with the specific authority to establish rules for the administration of the JET Grant Program; and

--Texas Labor Code §301.0015(a)(6) and §302.002(d), which provide TWC with the general authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of TWC services and activities.

The adopted rules relate to Title 3, Texas Education Code, particularly Chapter 134.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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