

1 **CHAPTER 849. EMPLOYMENT AND TRAINING SERVICES FOR DISLOCATED**
2 **WORKERS ELIGIBLE FOR TRADE BENEFITS**

3
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1 **CHAPTER 849. EMPLOYMENT AND TRAINING SERVICES FOR DISLOCATED**
2 **WORKERS ELIGIBLE FOR TRADE BENEFITS**

3
4 **SUBCHAPTER A. GENERAL PROVISIONS**

5
6 **§849.1. Purpose.**

- 7
8 (a) The purpose of this chapter is to ensure:
- 9
10 (1) statewide availability of services under the federal and state statutes and
11 regulations relating to services to dislocated workers eligible for Trade benefits
12 through the Workforce Solutions Offices consistent with Chapter 801 of this
13 title (relating to Local Workforce Development Boards);
 - 14
15 (2) coordination and integration of services to dislocated workers eligible for
16 Trade benefits through the Workforce Solutions Offices consistent with state
17 law, the Trade Act, and the Workforce Innovation and Opportunity Act. For
18 the purposes of this chapter, references to the "Trade Act" include references to
19 the federal statutes relating to the Trade Act of 1974, as amended; and
 - 20
21 (3) provision of Rapid Response services, as set forth in §849.21(b) of this
22 chapter, following an announcement or notification of a permanent closure or
23 mass layoff or the filing of a Trade Adjustment Assistance petition with the
24 United States Department of Labor.
- 25
26 (b) The purposes of services to dislocated workers eligible for Trade benefits under the
27 Trade Act are to:
- 28
29 (1) ensure that dislocated workers eligible for Trade benefits obtain suitable
30 employment whenever possible and to return to employment as quickly as
31 possible;
 - 32
33 (2) fund such services to develop or enhance the vocational skills necessary to
34 meet employers' needs when suitable employment cannot be obtained; and
 - 35
36 (3) provide other such services, as may be funded under state or federal programs,
37 for post-employment activities, as needed.

38
39 *The provisions of this §849.1 adopted to be effective November 24, 2003, 28 TexReg 10510;*
40 *amended to be effective January 12, 2015, 40 TexReg 270; amended to be effective July 18,*
41 *2022, 47 TexReg 4143*

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44
45 **§849.2. Definitions.**

1 The following words and terms, when used in this chapter, shall have the following
2 meanings unless the context clearly indicates otherwise.

- 3
- 4 (1) Adversely affected employment--Employment in which workers are eligible to
5 apply for Trade Adjustment Assistance (TAA).
6
- 7 (2) Adversely affected incumbent worker--An individual who:
8
- 9 (A) is a member of a worker group certified as eligible to apply for the TAA
10 Program;
11
- 12 (B) has not been totally or partially separated from adversely affected
13 employment; and
14
- 15 (C) is threatened with total or partial separation, as determined by the United
16 States Department of Labor (DOL).
17
- 18 (3) Adversely affected worker--An individual, including an employer, who
19 because of lack of work in adversely affected employment, has been totally or
20 partially separated from such employment.
21
- 22 (4) Alternative Trade Adjustment Assistance for Older Workers/Reemployment
23 Trade Adjustment Assistance--Benefits available to workers in an eligible
24 worker group who are at least 50 years of age and who obtain different, full-
25 time employment following separation from adversely affected employment, at
26 wages less than those earned in the adversely affected employment. These
27 workers may receive up to half of the difference between the worker's old
28 wage and the new wage, as set forth in the Trade Act.
29
- 30 (5) Benchmarking--A process conducted no less often than once every 60 days
31 and designed to monitor and ensure the worker progresses toward completing
32 the approved training based on two criteria:
33
- 34 (A) Maintaining satisfactory academic standing; and
35
- 36 (B) Staying on schedule to complete training within the time frame identified
37 in the approved training plan.
38
- 39 (6) Bona fide application for training--Any document developed by a Board or
40 provided by the Agency that meets the requirements of 20 Code of Federal
41 Regulations (CFR) §617.3(h)(1)(i), and is signed and dated by the participant,
42 which includes the participant's name, Trade petition number, and specific
43 occupational training.
44
- 45 (7) Contextualized learning--Learning, which includes English and basic skills,
46 presented in the context of the selected vocational skills training.

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- (8) Individual employment plan (IEP)--A revisable document containing an ongoing strategy, jointly developed by the trade-affected worker and the case worker, identifying the worker's employment goals and appropriate achievement objectives.
 - (9) Job search allowance--Benefit provided to trade-affected workers to support out-of-area job search when employment is not available within the Commission-established local commuting area.
 - (10) Labor market information--Information used to measure expected job market conditions that include, but are not limited to, job order activity, short-term projections data, job vacancy surveys, business visitation programs, and local and regional strategic plans.
 - (11) Rapid Response services--As defined by Workforce Innovation and Opportunity Act §3(51); 20 CFR Part 652, Subpart C; 20 CFR §§665.300, 665.310, and 665.320; and the Trade Act.
 - (12) Relocation allowance--A benefit provided to a trade-affected worker to support relocation of the worker's household and family when suitable employment or employment that pays a wage of at least the 75th percentile of national wages is not available to the worker within the Commission-established local commuting area and relocation is necessary to secure suitable employment.
 - (13) Suitable employment--Any employment that meets the requirements of 19 United States Code (USC) §2296, as referenced in 20 CFR Part 618, Subpart F, Reemployment Services, and in particular §618.610(a)(1), which is employment that results in work of an equal or higher skill level as compared to the worker's past adversely affected employment, with wages of not less than 80 percent of the worker's average weekly wage.
 - (14) Trade Act--The federal statutes relating to Trade Adjustment Assistance and Trade Readjustment Allowances. For purposes of this chapter, references to the "Trade Act" shall include references to the federal statutes relating to the Trade Act of 1974, as amended, which include the Trade Adjustment Assistance Reform Act of 2002; the Trade and Globalization Adjustment Assistance Act of 2009; the Omnibus Trade Act of 2010; the Trade Adjustment Assistance Extension Act of 2011; the sunset provisions of the Trade Adjustment Assistance Extension Act of 2011, referred to as Reversion 2014; and reversion provisions of the Trade Adjustment Assistance Reauthorization Act of 2015, referred to as Reversion 2021.
 - (15) Traded-affected worker--A category including both adversely affected workers and adversely affected incumbent workers.

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2
3 (16) Trade benefits--Benefits available to any member of a worker group certified
4 by DOL as trade-affected.
5
6 (17) Trade Readjustment Allowances (TRA)--A weekly allowance payable to an
7 adversely affected worker who meets the requirements of 20 CFR Part 618,
8 Subpart G.
9
10 (18) Unemployment Insurance (UI)--UI program as set forth in Texas Labor Code,
11 §201.001 *et seq.*
12
13 (19) Waiver of the training requirement--A document developed by the Agency,
14 which may be adapted by a Board, that meets the requirements of the Trade
15 Act, and is approved by state merit staff, waiving the requirement to be
16 enrolled in Trade-funded training in order to receive TRA.
17
18 (20) WARN--The Worker Adjustment and Retraining Notification Act, as set forth
19 in 29 USC Chapter 23.
20
21 (21) Work-based training--Training services specifically designed to meet an
22 employer's staffing and skill needs, as set forth by 20 CFR §618.635, including
23 on-the-job and customized training, and apprenticeship programs.
24

25 *The provisions of this §849.2 adopted to be effective November 24, 2003, 28 TexReg 10510;*
26 *amended to be effective January 12, 2015, 40 TexReg 270; amended to be effective July 18,*
27 *2022, 47 TexReg 4143*

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30
31 **§849.3. Trade Service Strategy.**

- 32
33 (a) Boards shall ensure that their strategic planning process includes an analysis of the
34 local labor market to:
35
36 (1) determine employer needs;
37
38 (2) determine emerging, targeted, and in-demand occupations and the earning
39 potential of those occupations;
40
41 (3) determine skill requirements of local in-demand occupations; and
42
43 (4) identify job vacancy listings and the skills necessary to obtain the jobs
44 identified in the listings, which include those with a potential for career
45 advancement.
46

- 1 (b) Boards shall set local policies for a Trade service strategy to:
2
3 (1) assist dislocated workers eligible for Trade benefits in obtaining suitable
4 employment as an alternative to referral to training;
5
6 (2) promote the use of Workforce Innovation and Opportunity Act (WIOA) career
7 services to support successful reemployment; and
8
9 (3) assist in employment retention and career advancement.
10
11 (c) Boards shall ensure that dislocated workers eligible for Trade benefits receive the
12 following services:
13
14 (1) Explanation of benefits and services available under the Trade Act, to include
15 applicable deadlines;
16
17 (2) Assessment of education, skills, and service needs;
18
19 (3) Information on training available locally and regionally, including information
20 on how to apply for financial aid supported under the Higher Education Act of
21 1965;
22
23 (4) Individual and group career counseling, including job search and placement
24 counseling during the period the trade-affected worker is receiving TRA or
25 training;
26
27 (5) Short-term prevocational services;
28
29 (6) Issuance of a waiver of the training requirement where suitable work is
30 unavailable, training is determined not to be feasible or appropriate, and the
31 worker meets applicable eligibility criteria;
32
33 (7) Development of an IEP;
34
35 (8) Referral to training services where suitable employment is unavailable;
36
37 (9) Assistance in filing requests for job search and/or relocation allowances;
38
39 (10) Support services available under the WIOA Title I dislocated worker program;
40
41 (11) Employment and case management services;
42
43 (12) Follow-up services during and upon completion of training; and
44
45 (13) Provision of employment statistics information, including the provision of
46 accurate information relating to local, regional, and national labor market

1 areas.

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3 *The provisions of this §849.3 adopted to be effective November 24, 2003, 28 TexReg 10510;*
4 *amended to be effective January 12, 2015, 40 TexReg 270; amended to be effective July 18,*
5 *2022, 47 TexReg 4143*

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9 **SUBCHAPTER B. TRADE SERVICES RESPONSIBILITIES**

10
11 **§849.11. General Board Responsibilities.**

- 12
13 (a) Board Planning. A Board shall amend and modify its integrated workforce training
14 and services plan to incorporate and coordinate the design, policy development, and
15 management of the delivery of Trade activities and support services with the delivery
16 of other workforce employment, training, and educational services identified in
17 Texas Government Code, §2308.251 *et seq.*, as well as other training and services
18 included in the One-Stop Service Delivery Network as set forth in Chapter 801 of
19 this title.
- 20
21 (b) Reporting. Boards shall ensure that documentation is maintained as required by the
22 Agency, including documentation required in the Agency's automated reporting
23 system.
- 24
25 (c) Monitoring. A Board shall ensure that the monitoring of program requirements and
26 trade-affected worker activities is part of the monitoring required under Chapter 802,
27 Subchapter D of this title (relating to Agency Monitoring Activities) and, in
28 particular, that the monitoring is ongoing and frequent, as determined appropriate by
29 the Board, and consists of the following:
- 30
31 (1) timely and accurate reporting of data required for the provision of services to
32 the trade-affected worker;
- 33
34 (2) tracking and reporting of participation;
- 35
36 (3) tracking and reporting of support services;
- 37
38 (4) ensuring progress toward achieving the goals and objectives through
39 benchmarking, as established in the worker's IEP and defined in §849.2(8) of
40 this chapter; and
- 41
42 (5) monitoring other requirements, as prescribed by the Commission.

43
44 *The provisions of this §849.11 adopted to be effective November 24, 2003, 28 TexReg 10510;*
45 *amended to be effective January 12, 2015, 40 TexReg 270; amended to be effective July 18,*
46 *2022, 47 TexReg 4143*

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4 **§849.12. Trade-Affected Worker Responsibilities.**
5

6 As required by the Trade Act, dislocated workers eligible for Trade benefits shall:
7

- 8 (1) apply for UI and TRA benefits in the manner, and pursuant to the time limits,
9 prescribed by federal and state statutes and regulations;
10
11 (2) contact the local Workforce Solutions Office and register for work by enrolling
12 in the Agency's automated job matching system;
13
14 (3) attend Rapid Response and Trade orientation activities;
15
16 (4) report to the employer to whom they are referred for suitable employment;
17
18 (5) accept a job offer and/or retain employment, if it meets the criteria for suitable
19 employment;
20
21 (6) attend scheduled appointments with the case manager, if no suitable
22 employment is available;
23
24 (7) review labor market information and expected wage of the new occupation;
25
26 (8) fully participate in Trade-approved training as defined by the training provider
27 and/or the Agency;
28
29 (9) notify the case manager prior to modifying Trade-approved training by adding
30 or dropping coursework;
31
32 (10) maintain satisfactory academic standing and progressing in Trade-approved
33 training as stipulated in the IEP; and
34
35 (11) report to employers, as referred by case managers, upon completing training.
36

37 *The provisions of this §849.12 adopted to be effective November 24, 2003, 28 TexReg 10510;*
38 *amended to be effective January 12, 2015, 40 TexReg 270; amended to be effective July 18,*
39 *2022, 47 TexReg 4143*
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43 **SUBCHAPTER C. TRADE SERVICES**
44

45 **§849.21. Activities Prior to Certification of a Trade Petition.**
46

- 1 (a) Boards shall develop intervention strategies for providing Workforce Solutions
2 Office services, which ensure rapid and suitable employment for trade-affected
3 workers and dislocated workers eligible for Trade benefits.
4
- 5 (b) Boards shall ensure that Rapid Response assistance is provided consistent with
6 Workforce Innovation and Opportunity Act (WIOA) Title I Rapid Response
7 services, including the following:
8
- 9 (1) contacting the employer immediately upon the filing of a Trade petition,
10 receipt of a WARN letter, the announcement of a layoff involving 50 or more
11 workers, other notification of pending layoff, or a mass job dislocation that
12 results from a natural disaster;
13
- 14 (2) scheduling a meeting with the employer and workers to ensure notification of
15 Rapid Response services, including availability of UI mass claims;
16
- 17 (3) scheduling services for workers, including:
18
- 19 (A) orientation to Trade Act benefits, which includes the following:
20
- 21 (i) TRA; and
22
- 23 (ii) Trade Act-funded employment and training activities; and
24
- 25 (B) orientation to labor market information, including wage data and the
26 availability of demand and targeted occupations as defined by the Board;
27
- 28 (4) assisting employers, workers, and labor unions with filing Trade petitions with
29 the United States Department of Labor;
30
- 31 (5) providing initial assessment of the trade-affected worker's skill levels,
32 (including literacy, numeracy, and English language proficiency), abilities
33 (including skill gaps), and need for support services;
34
- 35 (6) helping affected workers register in the state's labor exchange system; and
36
- 37 (7) coordinating with the appropriate UI field specialist.
38
- 39 (c) Boards shall ensure that:
40
- 41 (1) Trade-affected workers are coenrolled in the WIOA Dislocated Worker program
42 if they are eligible; and
43
- 44 (2) Workforce Solutions Office staff completes the Trade Adjustment Assistance
45 Coenrollment Declination Form if a trade-affected worker declines
46 coenrollment.

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3 *The provisions of this §849.21 adopted to be effective November 24, 2003, 28 TexReg 10510;*
4 *amended to be effective January 12, 2015, 40 TexReg 270; amended to be effective July 18,*
5 *2022, 47 TexReg 4143*
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9 **§849.22. Postcertification of a Trade Petition.**
10

11 (a) Boards shall ensure that:

- 12
13 (1) trade-affected workers are referred to Workforce Innovation and Opportunity
14 Act (WIOA) career and training services, consistent with WIOA eligibility
15 criteria, the needs of the worker, and a Board's policies and procedures; and
16
17 (2) the coenrollment of Trade-certified workers in WIOA Title I dislocated worker
18 services shall not interfere with the timely provision of TAA services.
19

20 (b) Boards shall ensure that prior to referring a trade-affected worker to WIOA career or
21 training services, each of the following criteria are met and documented in the IEP:
22

- 23 (1) An employment goal, including the targeted occupation and industry;
24
25 (2) The proposed training program, if applicable;
26
27 (3) Services that the worker will need to obtain suitable employment, including
28 career services, support services provided through partner programs, and post-
29 training case management services;
30
31 (4) Supplemental assistance required for participation in training and the basis for
32 cost calculation; and
33
34 (5) The worker's responsibilities under the plan.
35

36 (c) Boards shall ensure that the approval of Trade benefits and services is accomplished
37 by state merit staff, including approval of training, waiver issuance, and the
38 associated review and approval of waiver continuation.
39

40 (d) Boards shall ensure that any denial of Trade benefits or services is accomplished by
41 forwarding a recommendation to the Agency's TAA State Office unit for issuance of
42 a formal appealable decision.
43

44 *The provisions of this §849.22 adopted to be effective November 24, 2003, 28 TexReg 10510;*
45 *amended to be effective January 12, 2015, 40 TexReg 270; amended to be effective July 18,*
46 *2022, 47 TexReg 4143*

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4 **§849.23. Training.**
5

6 (a) Boards shall ensure that Trade-funded training is approved as set forth in this
7 subsection. Training must:

- 8
9 (1) meet the criteria established in 20 Code of Federal Regulations §618.610;
10
11 (2) use training providers that are licensed under applicable state law or exempt
12 from such requirements, or possessing accreditation recognized by the United
13 States Department of Education;
14
15 (3) be specific to the worker's occupational goals;
16
17 (4) meet the needs of employers and ensure the trade-affected worker has a
18 reasonable expectation of employment; and
19
20 (5) be capable of being completed and a degree or credential secured within the
21 maximum time frame.
22

23 (b) Boards shall ensure that the following types of career and training services are
24 considered:

- 25
26 (1) work-based training, including on-the-job training, customized training, and
27 apprenticeship programs;
28
29 (2) occupational training;
30
31 (3) labor market information;
32
33 (4) contextualized occupational training, particularly for Limited English
34 Proficiency customers; and
35
36 (5) remedial training, including literacy, particularly English as a Second
37 Language, Adult Education and Literacy, or high school equivalency
38 certificate training.

1
2 *The provisions of this §849.23 adopted to be effective November 24, 2003, 28 TexReg 10510;*
3 *amended to be effective January 12, 2015, 40 TexReg 270; amended to be effective July 18,*
4 *2022, 47 TexReg 4143*

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7
8 **SUBCHAPTER D. SUPPORT SERVICES**

9
10 **§849.41. Support Services for Dislocated Workers Eligible for Trade Benefits.**

- 11
12 (a) Boards shall ensure that support services available under Workforce Innovation and
13 Opportunity Act Title I dislocated worker services are made available to dislocated
14 workers eligible for Trade benefits under existing Board policies and procedures.
15
16 (b) Support services may include payment or reimbursement from sources other than
17 Trade Act funds for:
18
19 (1) child care services that are governed by rules contained in Chapter 809 of this
20 title;
21
22 (2) local transportation services;
23
24 (3) housing assistance, if necessary; and
25
26 (4) dependent care.
27

28 *The provisions of this §849.41 adopted to be effective November 24, 2003, 28 TexReg 10510;*
29 *amended to be effective July 18, 2022, 47 TexReg 4143*

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32
33 **SUBCHAPTER E. COMPLAINTS AND APPEALS**

34
35 **§849.51. Appeals of Commission Determinations on Trade Act Activities.**

- 36
37 (a) A Commission determination or decision may be appealed by the party who is
38 adversely affected by the decision. The decision shall include the information
39 necessary to appeal the decision. Decisions that may be appealed include
40 determinations pertaining to eligibility for Trade Act activities, services, and
41 monetary allowances regarding a trade-affected worker's application for:
42
43 (1) waivers of training;
44
45 (2) job search allowances;
46

- (3) job relocation allowances;
- (4) Trade Readjustment Allowances;
- (5) training; and
- (6) any other appealable action allowable under the Trade Act.

(b) Appeals under the Trade Act shall be in accordance with Texas Labor Code, Chapter 212, and Chapter 815 of this title, and as provided with the determination or decision.

(c) Boards shall ensure that trade-affected workers are informed of their rights to appeal a determination related to certain non-Trade-funded activities and the procedures for an appeal of the determination, and for requesting a hearing from the Commission as specified in the applicable statutes and regulations relating to the services, including but not limited to Chapter 823 of this title.

(d) Boards shall ensure that trade-affected workers are informed that if they fail without good cause to complete training, a job search, or a relocation, then a portion of the payment for the respective benefit may result in an overpayment. Boards must submit overpayment requests to the Agency's TAA State Office for a final determination.

The provisions of this §849.51 adopted to be effective November 24, 2003, 28 TexReg 10510; amended to be effective July 18, 2022, 47 TexReg 4143

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§849.52. Discrimination Complaints.

(a) A trade-affected worker alleging discrimination on the basis of age, race, color, national origin, or physical or mental disability has a right to file a written complaint of alleged discriminatory acts within 180 calendar days from the date of the alleged discriminatory acts. Complaints shall be submitted to the Texas Workforce Commission Equal Opportunity Department, 101 East 15th Street, Room 220, Austin, Texas 78778-0001.

(b) Boards shall ensure that the Board or the Board's service providers advise individuals who express an interest in filing a discrimination complaint of their right to file a complaint and the complaint procedures.

The provisions of this §849.52 adopted to be effective November 24, 2003, 28 TexReg 10510; amended to be effective July 18, 2022, 47 TexReg 4143

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