

Background

Senate Bill (SB) 1055, 86th Texas Legislature, Regular Session (2019), added new Chapter 317 to the Texas Labor Code, requiring the Texas Workforce Commission (TWC), in consultation with the Texas Education Agency (TEA), to create and administer a Workforce Diploma Pilot Program (Program). As outlined in Chapter 317, the Program will allow eligible high school diploma-granting entities to be reimbursed for helping adult students obtain high school diplomas and industry-recognized credentials and develop technical career-readiness and employability skills.

SB 1055 stipulates that Chapter 317 expires on September 1, 2025, and requires TWC to develop rules that:

- outline the application process to become a qualified provider;
- define the minimum performance standards for qualified providers, which include a graduation rate of at least 50 percent and a program cost per graduate of \$7,000 or less for the previous calendar year; and
- develop formulas to make the appropriate calculations to determine the graduation rate and program cost per graduate.

SB 1055 includes the stipulation that TWC “is required to implement a provision of this Act only if the legislature appropriates money specifically for that purpose. If the legislature does not appropriate money specifically for that purpose, the Texas Workforce Commission may, but is not required to, implement a provision of this Act using other appropriations available for that purpose.” TWC will develop rules to implement the Program upon allocating funding for its implementation.

Accordingly, staff proposes creating a new subchapter, Workforce Diploma Pilot Program, in TWC’s Chapter 800 General Administration rules to develop rules as required in statute.

Purpose and Definitions

The new subchapter will outline the purpose of the Program and define terms to be used in the subchapter and in the Program’s implementation. Staff proposes the following guidelines for TWC’s three-member Commission (Commission) to use to identify the purpose of the Program. Underlined throughout the policy concept is proposed rule language for the Commission to consider when completing the rulemaking process.

The purpose of the Workforce Diploma Pilot Program is to reimburse qualified providers that provide assistance to adult students to obtain high school diplomas and industry-recognized credentials and to develop technical career readiness and employability skills to the extent that funding is available for this purpose.

Proposed direction for the Commission to consider to define terms for this subchapter is as follows:

- “Academic resiliency” is a student’s ability to persist and to academically succeed despite adversity.

- An “academic skill intake assessment” is a formal and/or informal assessment used at intake to gather information on a student’s current knowledge and skills in specific academic areas (for example, literacy and numeracy). That information then is used to determine an appropriate instructional level as well as accommodations and/or remediation that the student needs.
- A “Career Pathway” is “a combination of rigorous and high-quality education, training, and other services that—(A) aligns with the skill needs of industries in the economy of the State or regional economy involved; (B) prepares an individual to be successful in any of a full range of secondary or postsecondary education options . . . ; (C) includes counseling to support an individual in achieving the individual’s education and career goals; (D) includes, as appropriate, education offered concurrently with and in the same context as workforce preparation activities and training for a specific occupation or occupational cluster; (E) organizes education, training, and other services to meet the particular needs of an individual in a manner that accelerates the educational and career advancement of the individual to the extent practicable; (F) enables an individual to attain a secondary school diploma or its recognized equivalent, and at least 1 recognized postsecondary credential; and (G) helps an individual enter or advance within a specific occupation or occupational cluster” (29 USC §3102, Definitions).
- An “eligible participant” who may receive services under this Program must be an individual who is over the age of compulsory school attendance prescribed by Texas Education Code §25.085 and, in addition, as required by TWC:
 - is a Texas resident;
 - lacks a high school diploma;
 - is authorized to work in the United States; and
 - is able to work immediately upon graduation from the program.
- An “employability skills certification program” refers to a certification in general skills that are necessary for success in the labor market at all employment levels and in all industry sectors. Employability skills include problem-solving, collaboration, organization, and adaptability.
- The term “half credit” is based on the Carnegie Unit, which refers to the standard award of credit given for a course that lasts one semester. When determining credits, qualified providers should consider instructional time plus the amount of time the student would take to complete the coursework in a high school semester or academic year. In traditional education models, a student typically attends a class for 55–60 minutes a day for four or five days a week in addition to studying independently.
- A “high school diploma” is a credential awarded by an entity based on completion of all state graduation requirements as outlined in Texas Education Code (TEC) §28.025 and §39.023 and Texas Administrative Code (TAC) §§74 and 101.
- An “industry-recognized credential” is a state-approved credential verifying an individual’s qualifications and competence and is issued by a third party with the relevant authority to issue such credentials (US Department of Labor, 2010). Industry-recognized credentials

offered by qualified providers must align with TWC’s mission to target high-growth, high-demand, and emerging occupations that are crucial to the state and local workforce economies and must reflect the target occupations for the workforce areas in which services will be provided. Qualified providers may also reference the list of industry-based certifications for public school accountability published by the Texas Education Agency.

- “Learning Plan Development” is the process by which an individualized learning plan is developed after student intake; it is maintained through coaching and mentoring.
- The term “one credit” is based on the Carnegie Unit, which refers to the standard award credit given for a course that lasts a full academic year. When determining credits, qualified providers should consider instructional time plus the amount of time the student would take to complete the coursework in a high school semester or academic year. In traditional education models, a student typically attends a class for 55–60 minutes a day for four or five days a week in addition to studying independently.
- “Program” refers to the Workforce Diploma Pilot Program authorized under SB 1055.
- A “qualified provider” that may participate in the Program and receive reimbursement is a provider that:
 - is a public, nonprofit, or private entity that is:
 - authorized under the Texas Education Code (TEC) or other state law to grant a high school diploma, or
 - accredited by a regional accrediting body, as established by the Secretary of Education pursuant to 20 USCS §1099b, Recognition of Accrediting Agency or Association;
 - has at least two years of experience providing dropout reengagement services to adult students, including recruitment, learning plan development, and proactive coaching and mentoring, leading to the obtainment of a high school diploma;
 - is equipped to:
 - provide:
 - academic skill intake assessment and transcript evaluations;
 - remediation coursework in literacy and numeracy;
 - a research-validated academic resiliency assessment and intervention;
 - employability skills development aligned to employer needs;
 - career pathways coursework;
 - preparation for the attainment of industry-recognized credentials; and
 - career placement services; and
 - develop a learning plan that integrates academic requirements and career goals; and
 - offers a course catalog that includes all courses necessary to meet high school graduation requirements in Texas, as authorized under Texas Education Code Chapter 74. Curriculum Requirements, Subchapter B. Graduation Requirements.
- A “regional accrediting body” must meet the criteria established by the Secretary of Education pursuant to 20 USCS §1099b, Recognition of Accrediting Agency or Association, and appear on the Secretary of Education’s list of federally recognized accrediting agencies

in the *Federal Register* as stated in 34 CFR §602.2. A copy of the list may be obtained from the US Department of Education.

Issue 1: TWC Request for Qualifications and List of Qualified Providers

New Chapter 800 subchapter, Workforce Diploma Reimbursement Program, will describe the Program's implementation provisions, as outlined in Chapter 317, to the extent that TWC funding is available. The Commission would approve funding for the Program each calendar year.

Chapter 317 requires TWC to publish a Request for Qualifications (RFQ) no later than October 15 of each year to identify Program providers. The new subchapter will outline the application process for qualified providers. Proposed direction for the Commission to consider to outline the application process is as follows:

- TWC will identify qualified providers to participate in the Program through a statewide RFQ process conducted in accordance with state requirements.
- Potential providers will apply directly to TWC using the RFQ process, and, once identified as a qualified provider, must meet all deadlines, requirements, and guidelines set forth in the RFQ.
- TWC will publish a list of qualified providers by November 15 of each year to participate in the Program the next calendar year.
- Each provider on the qualified provider list will be eligible to receive monthly reimbursements for this Program based on monthly invoices submitted to TWC as prescribed in the RFQ's terms.
- The list of qualified providers will be reviewed by TWC and updated each year. Qualified providers that do not meet the minimum performance standards outlined in rule will be placed on probation for the remainder of the calendar year. Failure to meet both minimum performance standards for two consecutive years will result in disqualification from the Program.
- TWC's determinations in the RFQ process will be based on the affirmation of the qualified provider to effectively perform all services and activities outlined in Chapter 317.

Issue 2: Minimum Performance Standards and Formulas to Calculate Graduation Rate and Program Cost Per Graduate

As required in statute, the new subchapter's rules will describe the minimum performance standards needed for qualified providers to remain on the list and provide formulas for calculating the graduation rate and Program cost per graduate.

Minimum Performance Standards

Proposed direction for the Commission to consider to define minimum performance standards is as follows:

The minimum performance standards for the calendar year must include:

- a graduation rate of at least 50 percent; and
- a program cost per graduate of \$7,000 or less.

Proposed direction for the Commission to consider to outline Commission actions if a qualified provider fails to maintain minimum performance standards is as follows:

- The Commission shall review data from each participating provider annually to ensure that the services offered by the provider are meeting the minimum performance standards. If the Commission determines that a provider did not meet the minimum performance standards in the previous calendar year, the Commission shall place the provider on probationary status for the remainder of the current calendar year.
- The Commission shall remove any provider that does not meet the minimum performance standards for two consecutive calendar years from the provider list published under §317.005.

Graduation Rate

Proposed direction for the Commission to consider to develop a formula for determining graduation rate is as follows:

“Graduation rate” shall be defined as and determined by dividing the number of students who received a high school diploma from the qualified provider by the number of students for which the qualified provider sought and received reimbursements.

For example, as stated in the annual report and verified through the monthly invoices, a qualified provider reports providing services and receiving reimbursements for 100 students, with 54 of the reported students obtaining a high school diploma within the calendar year. The graduation rate is therefore 54 percent: 54 students/100 students = 54 percent.

Program Cost Per Graduate

Proposed direction for the Commission to consider to develop a formula for determining the program cost per graduate is as follows:

- The program cost per graduate may not exceed \$7,000.
- The product of the number of students who received a high school diploma the previous calendar year multiplied by \$7,000 may not exceed the total annual cost (reimbursements paid) to the qualified provider for the total number of services provided.

For example, in the annual report, the provider reports providing services to 100 students, 54 of which obtained a high school diploma. The total annual cost for providing services to the 100 students listed on the report may not exceed \$378,000, or 54 multiplied by \$7,000. Reimbursements will be tracked and verified through reconciliation of the monthly invoices submitted by the provider.

While SB 1055 outlines the various milestones for which qualified providers may receive a reimbursement, TWC will clarify in the new rule that a provider may not receive more than one reimbursement for the training provided in the student’s pursuit of an industry-recognized credential. For example, SB 1055 allows for a reimbursement of \$250 for training that does not exceed 50 hours and \$500 for a training that is at least 50 hours. Staff proposes clarifying that a provider may not be reimbursed twice for one achievement of an industry-recognized credential.

In addition to addressing cost per graduate, the new subchapter will list the reimbursement amounts that a qualified provider may receive (to the extent that funding is available). Per SB 1055, those reimbursement rates will be as follows:

- \$250 for completion of a half credit

- \$250 for completion of an employability skills certification program equal to at least one credit or the equivalent
- \$250 for the attainment of an industry-recognized credential requiring not more than 50 hours of training
- \$500 for the attainment of an industry-recognized credential requiring at least 50 but not more than 100 hours of training
- \$750 for the attainment of an industry-recognized credential requiring more than 100 hours of training
- \$1,000 for the obtainment of a high school diploma

As described in the RFQ, the qualified provider must submit an invoice and supporting documentation for the milestones achieved by the provider's students during the previous month.

Invoices and supporting documentation must be submitted by 5:00 p.m. on the 10th day of the following month. If the 10th day falls on a weekend, the due date is the first Monday following the 10th day, or the first Tuesday if the first Monday falls on a federal holiday. TWC will provide an email address to which providers will send invoices, supporting documentation, and point-of-contact information.

Invoices will be processed in the order in which they are received, and they will be validated before reimbursement.

Before the start of the Program, eligible providers will be required to establish the number of students to be served to ensure payment of all invoices.

Decision Point

Staff seeks direction on creating a new subchapter in Chapter 800, Workforce Diploma Reimbursement Program, to:

- outline the application process to become a qualified provider;
- describe the minimum performance standards for qualified providers, which include a graduation rate of at least 50 percent and a program cost per graduate of \$7,000 or less for the previous calendar year; and
- develop formulas to make the appropriate calculations to determine graduation rate and program cost per graduate.