PROPOSED RULES

Proposed rules include new rules, amendments to existing rules, and repeals of existing rules. A state agency shall give at least 30 days’ notice of its intention to adopt a rule before it adopts the rule. A state agency shall give all interested persons a reasonable opportunity to submit data, views, or arguments, orally or in writing (Government Code, Chapter 2001).

Symbols in proposed rule text. Proposed new language is indicated by underlined text. [Square brackets and strikethrough] indicate existing rule text that is proposed for deletion. "(No change)" indicates that existing rule text at this level will not be amended.

TITLE 1. ADMINISTRATION

PART 3. OFFICE OF THE ATTORNEY GENERAL

CHAPTER 63. PUBLIC INFORMATION

SUBCHAPTER A. CONFIDENTIALITY OF INFORMATION REQUESTED FOR LEGISLATIVE PURPOSES

1 TAC §63.1

The Office of the Attorney General (OAG) proposes an amendment to Chapter 63, Subchapter A, §63.1, concerning Definition, Purpose, and Application.

A legislator requesting public information under Texas Government Code §§552.008 for legislative purposes may be required to sign a confidentiality agreement to receive information that is confidential under law. Chapter 63, Subchapter A establishes the process by which a legislator, who is required to sign a confidentiality agreement, may seek an attorney general decision about whether information subject to the confidentiality agreement is confidential under law. Section 63.1(c) makes Texas Government Code §552.308, concerning the timeliness of action by mail or common carrier, applicable to all deadlines in Subchapter A. The OAG proposes to amend §63.1(c) to clarify that Texas Government Code §552.309, concerning the timeliness of action transmitted through the attorney general's electronic filing system, is also applicable to all deadlines in Subchapter A.

Justin Gordon, Division Chief, Open Records Division, has determined that for each of the first five years the proposed amendment is in effect, there are no foreseeable fiscal implications for state or local governments as a result of enforcing or administering the amendment.

Mr. Gordon has determined that for each of the first five years the proposed amendment is in effect, the public will benefit from having accurate and current information regarding the use of the attorney general's electronic filing system for an attorney general decision requested pursuant to Texas Government Code §552.008. Mr. Gordon has determined: there is no probable economic cost to persons required to comply with the amendment; the proposed amendment will not impact local economies; and the proposed amendment will not have an adverse economic effect on small businesses, micro-businesses, or rural communities.

In compliance with Government Code §2001.0221, the OAG has prepared the following government growth impact statement. The proposed amendment will not: create or eliminate a government program; require the creation of new employee positions or the elimination of existing employee positions; require an increase or decrease in future legislative appropriations to the OAG; require an increase or decrease in fees paid to the OAG; create a new regulation; expand, limit, or repeal an existing regulation; increase or decrease the number of individuals subject to the rule’s applicability; or positively or adversely affect this state’s economy.

Written comments on the proposed amendment may be submitted for 30 days following the publication of this notice to Justin Gordon, Division Chief, Open Records Division, Office of the Attorney General, P.O. Box 12548, Austin, Texas 78711-2548, Justin.Gordon@oag.texas.gov.

The amendment to §63.1 is proposed in accordance with Texas Government Code §552.008(b-2), which requires the OAG to establish, by rule, the procedures and deadlines for a member, committee, or agency of the legislature to seek an attorney general decision about whether information requested under Texas Government Code §552.008 and covered by a confidentiality agreement is confidential under law.

No other code, article, or statute is affected by this proposal.

§63.1. Definition, Purpose, and Application.

(a) In this subchapter, "legislative requestor" means an individual member, agency, or committee of the legislature.

(b) This subchapter governs the procedures by which the attorney general shall render a decision sought by a legislative requestor under Texas Government Code §552.008(b-2).

(c) Texas Government Code §§552.308 and 552.309 apply to all deadlines established in this subchapter.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency’s legal authority to adopt.

Filed with the Office of the Secretary of State on February 20, 2020.

TRD-2020000727
Ryan L. Bangert
Deputy Attorney General for Legal Counsel
Office of the Attorney General

Earliest possible date of adoption: April 5, 2020

For further information, please call: (512) 457-3210

♭ ♦ ♦ ♦

TITLE 13. CULTURAL RESOURCES
PART 2. TEXAS HISTORICAL COMMISSION

CHAPTER 19. TEXAS MAIN STREET PROGRAM

13 TAC §19.3

The Texas Historical Commission (THC) proposes amendments to §19.3 of Chapter 19 (Title 13, Part II of the Texas Administrative Code) relating to the Texas Main Street Program ("the program").

The THC's Texas Main Street Program is the agency's responsibility under Section 442.014 of the Texas Government Code. The Texas Main Street Program utilizes a national model established by the National Trust for Historic Preservation and the agency has been the state coordinating program for more than thirty-five years. Administration of the program must comply with the requirements of the national Main Street America program and those set by the Texas Legislature. Local communities in Texas wishing to participate in the program must apply and participate under the auspices of the THC. Currently, ninety communities with populations from approximately 1,900 to 325,000 are designated in the program statewide.

The purpose of the Texas Main Street Program is to assist communities in the preservation and revitalization of their historic downtowns and commercial neighborhood districts. The THC provides training, technical, and organizational assistance to the local participants.

The amendment to Chapter 19 is proposed to clarify existing practices. The amendment defines that the participating community is responsible for identifying the specific geographic area within which the program services are available, subject to approval by the state program. The amendment ensures that the agency retains the ability to allocate state resources effectively.

FISCAL NOTE. Mark Wolfe, Executive Director, has determined that for the first five-year period the amendments are in effect, there will be no fiscal implications for state or local governments as a result of enforcing or administering these amendments as proposed.

PUBLIC BENEFIT/ COST NOTE. Mr. Wolfe has determined for each year of the first five-year period the amendments are in effect the public benefit anticipated as a result of the amendments will be an increased clarity of the administration of the Texas Main Street Program as well as the effective allocation of agency resources. The proposed amendments do not impose a cost on regulated persons or entities; therefore, it is not subject to Texas Government Code, §2001.0045. In addition, the proposed amendments do not restrict or limit an owner's right to his or her property, and therefore do not require a takings impact assessment under Texas Government Code §2007.043.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS FOR SMALL BUSINESSES, MICROBUSINESSES, AND RURAL COMMUNITIES. Mr. Wolfe has determined that there will be no effect on rural communities, small business, or microbusinesses; therefore, no regulatory flexibility analysis, specified in Texas Government Code, §2006.002, is required. There is no anticipated economic cost to persons who are required to comply with the proposed amendments.

GOVERNMENT GROWTH IMPACT STATEMENT. During the first five years that the amendments would be in effect, the proposed amendments: will not create or eliminate a government program; will not result in the addition or reduction of employees; will not require an increase or decrease in future legislative appropriations; will not lead to an increase or decrease in fees paid to a state agency; will not create a new regulation; will not repeal an existing regulation; and will not result in an increase or decrease in the number of individuals subject to the rule. During the first five years that the amendments would be in effect, the proposed amendments will not positively or adversely affect the Texas economy.

REQUEST FOR PUBLIC COMMENT. Comments on the proposed amendments may be submitted to Mark Wolfe, Executive Director, Texas Historical Commission, P.O. Box 12276, Austin, Texas 78711-2276. Comments will be accepted for 30 days after publication in the Texas Register.

STATUTORY AUTHORITY. Amendments to §19.3 of Chapter 19 (Title 13, Part II of the Texas Administrative Code) relating to the Texas Main Street Program ("the program") are proposed under Section 442.005(q) of the Texas Government Code, which provides the THC with the authority to promulgate rules for the effective administration of its programs under the chapter, and under Section 442.014 of the Texas Government Code which provides THC with the authority to administer the Texas Main Street Program.

CROSS REFERENCE TO STATUTE. The proposed amendments implement Section 442.014 of the Texas Government Code. No other statutes, articles, or codes are affected by these amendments.

§19.3. Definitions.

When used in this chapter, the following words or terms have the following meanings unless the context clearly indicates otherwise:

(1) Texas Main Street Program--A program of the Commission in which designated Texas Main Street cities receive assistance for the preservation and revitalization of their historic downtowns or commercial neighborhood districts.

(2) Texas Main Street City--Any city that has been officially designated by the Commission as a participant in the Texas Main Street Program as a Texas Main Street Small City, Texas Main Street Urban City, or Texas Main Street Recertified City.

(3) Texas Main Street Small City--Main Street city with population of 50,000 people or fewer based on the most recent decennial census.

(4) Texas Main Street Urban City--Main Street city with population of 50,001 or more people based on the most recent decennial census.

(5) Texas Main Street Provisional City--A Main Street city of any size that is not accepted upon first application submittal may participate provisionally in the program, upon invitation, while application is resubmitted the next application period.

(6) Texas Main Street Recertified City--A city that was formerly in the program that has reapplied and been accepted to be a Texas Main Street City.

(7) Main Street Interagency Council--A council that evaluates and ranks Main Street applications and makes recommendations to the Commission. The composition of the Main Street Interagency Council is determined by the Commission.

(8) Texas Main Street Affiliate--A city or commercial neighborhood district that has been accepted by the Commission to
participate in the program as an affiliate with fewer responsibilities, benefits, and services than a Texas Main Street City. The designation of affiliates is subject to available Commission resources and may be limited based on population or other factors.

(9) Probationary Status--A temporary time period in which a Texas Main Street City, by written agreement with the Commission, is permitted to maintain its status as a designated Main Street in order to resolve deficiencies or issues within their city's local Main Street program.

(10) Leave of Absence--A temporary time period, not to exceed one year, in which a Texas Main Street City may suspend participation in the Texas Main Street Program while retaining the option to return to participation at the end of the period without needing to reapply to be a Texas Main Street Recertified City. The city is not considered an officially designated Texas Main Street City during the Leave of Absence. This status may only be utilized one time by any single Texas Main Street City and may not be renewed or extended.

(11) Main Street Program Area--Geographic area within a Texas Main Street City where the Commission may provide technical assistance under the program. The program area shall be a defined, historic commercial core, corridor, or district with a concentration of historic commercial buildings. The program area is defined by the local community and is subject to review and possible amendment by the Texas Main Street Program.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 24, 2020.

TRD-202000797
Mark Wolfe
Executive Director
Texas Historical Commission

Earliest possible date of adoption: April 5, 2020
For further information, please call: (512) 463-6100

TITLE 16. ECONOMIC REGULATION
PART 2. PUBLIC UTILITY COMMISSION OF TEXAS
CHAPTER 25. SUBSTANTIVE RULES APPLICABLE TO ELECTRIC SERVICE PROVIDERS
SUBCHAPTER J. COSTS, RATES AND TARIFFS
DIVISION 1. RETAIL RATES

16 TAC §25.248

The Public Utility Commission of Texas (commission) proposes new 16 Texas Administrative Code (TAC) §25.248, relating to the establishment of a generation cost recovery rider (GCRR) that establishes rates for certain non-Electric Reliability Council of Texas (ERCOT) utilities. The proposed new rule will implement the changes required by House Bill 1397, passed in the 86th Regular Legislative Session, relating to a rider to recover an electric utility's investment in a power generation facility. The provisions of the rule only apply to an electric utility that operates solely outside of ERCOT.

Growth Impact Statement

The agency provides the following governmental growth impact statement for the proposed rule, as required by Texas Government Code §2001.0221. The agency has determined that for each year of the first five years that the proposed rule is in effect, the following statements will apply:

(1) the proposed rule will not create a government program and will not eliminate a government program;

(2) implementation of the proposed rule will not require the creation of new employee positions and will not require the elimination of existing employee positions;

(3) implementation of the proposed rule will not require an increase and will not require a decrease in future legislative appropriations to the agency;

(4) the proposed rule will not require an increase and will not require a decrease in fees paid to the agency;

(5) the proposed rule will create a new regulation;

(6) the proposed rule will not expand an existing regulation;

(7) the proposed rule will not change the number of individuals subject to the rule's applicability; and

(8) the proposed rule will not affect this state's economy.

The proposed rule creates a new section numbered 25.248. The new regulation is required in order to implement HB 1397 and sets forth the requirements for an electric utility that operates solely outside of ERCOT to apply for a rider to recover the electric utility's investment in a power generation facility.

Fiscal Impact on Small and Micro-Businesses and Rural Communities

There is no adverse economic effect anticipated for small businesses, micro-businesses, or rural communities as a result of implementing the proposed rule. Accordingly, no economic impact statement or regulatory flexibility analysis is required under Texas Government Code §2006.002(c).

Takings Impact Analysis

The commission has determined that the proposed rule will not be a taking of private property as defined in chapter 2007 of the Texas Government Code.

Fiscal Impact on State and Local Government

Mark Filarowicz, Senior Financial and Accounting Analyst, has determined that, for the first five-year period the proposed amendments are in effect, there will be no fiscal implications for the state or for units of local government under Texas Government Code §2001.024(a)(4) as a result of enforcing or administering the sections.

Public Benefits

Mr. Filarowicz has also determined that, for each year of the first five years the proposed section is in effect, the anticipated public benefits expected as a result of the adoption of the proposed rule will be probable reductions to regulatory burdens and expenses associated with rate regulation proceedings and that there will be
no probable economic cost to persons required to comply with the rule under Texas Government Code §2001.024(a)(5).

Local Employment Impact Statement

For each year of the first five years the proposed section is in effect there should be no effect on a local economy; therefore, no local employment impact statement is required under Texas Government Code §2001.022.

Costs to Regulated Persons

Texas Government Code §2001.0045(b) does not apply to this rulemaking because the Public Utility Commission is expressly excluded under subsection §2001.0045(c)(7).

Public Hearing

The commission staff will conduct a public hearing on this rulemaking, if requested in accordance with Texas Government Code §2001.029, at the commission's offices located in the William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701 on April 23, 2020. The request for a public hearing must be received by April 6, 2020. Requests for a public hearing must be made separately from comments to the proposed rule.

Public Comments

Comments on the proposed new section may be filed with the commission's filing clerk at 1701 North Congress Avenue, Austin, Texas or mailed to P.O. Box 13326, Austin, Texas 78711-3326. Initial comments must be received by April 6, 2020. Reply comments must be received by April 21, 2020. Sixteen copies of comments to the proposed rule are required to be filed by 16 TAC §22.71(c). Comments should be organized in a manner consistent with the organization of the proposed rule. The commission invites specific comments regarding the costs associated with, and benefits that will be gained by, implementation of the proposed rule. The commission will consider the costs and benefits in deciding whether to adopt the rule. All comments should refer to project number 50031.

Statutory Authority

This new section is proposed under §14.002 of the Public Utility Regulatory Act, Texas Utilities Code Annotated (West 2016 and Supp. 2017) (PUR), which provides the commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction, and, specifically, PURA §36.213(g) Recovery of Generation Investment by Non-ERCOT Utilities, which requires the commission to adopt rules as necessary to implement an application to allow electric utilities that operate solely outside of ERCOT to apply for a rider to recover the electric utility's investment in a power generation facility.


(a) Applicability. This section provides a mechanism for an electric utility to request to recover investment in a power generation facility through a generation cost recovery rider (GCCR) outside of a base-rate proceeding. This section applies only to an electric utility that operates solely outside of the Electric Reliability Council of Texas.

(b) Definitions. The following terms, when used in this section, have the following meanings unless context indicates otherwise.

1.GCCRR billing determinant—Each rate class's annual billing determinant (kilowatt-hour, kilowatt, or kilovolt-ampere) for the previous calendar year.

2. Generation invested capital—The parts of the electric utility's invested capital for a power generation facility that will be functionalized as generation plant properly recorded in Federal Energy Regulatory Commission (FERC) Uniform System of Accounts 303 through 347, 352, and 353 when the generation facility is placed into service.

3. Power generation facility—A discrete facility or facilities constructed or purchased by an electric utility for use in generating electricity for public service by the electric utility, and the cost of which is not included in the electric utility's base rates. The term “facility” may encompass different parts of a single generation facility that begins providing service to the electric utility's customers on the same date.

4. Power generation facility invested capital—Generation invested capital associated with a power generation facility included in the electric utility's GCCR that will be placed into service before or at the time the GCCR becomes effective under subsection (g) of this section.

5. Power generation facility net invested capital—Power generation facility invested capital that is adjusted for accumulated depreciation and any changes in accumulated deferred federal income taxes, including changes to excess accumulated deferred federal income taxes, associated with all power generation facilities included in the electric utility's GCCR.

6. Weather-normalized—Adjusted for normal weather using weather data for the most recent ten-year period prior to the year from which the GCCR billing determinants are derived.

(c) GCCR Requirements. The GCCR rate for each rate class, and any other terms or conditions related to those rates, will be specified in a rider to the utility's tariff.

1. An electric utility must not have more than one GCCR.

2. An electric utility with an existing GCCR may apply to update the GCCR to reflect the electric utility's actual capital investment in a power generation facility and additional power generation facilities.

3. Any GCCR established under this section will take effect on the date the power generation facility begins providing service to the electric utility's customers. Any update to an existing GCCR for an additional power generation facility will take effect on the date that additional power generation facility begins providing service to the electric utility's customers.

4. As part of the next base-rate proceeding for the electric utility, the electric utility must request to move all investment being recovered in a GCCR into base rates and the GCCR will be set to zero.

(d) Calculation of GCCR Rates. The GCCR rate for each rate class must be calculated according to the provisions of this subsection and subsections (e) and (f) of this section.

1. The GCCR rates will not take into account changes in the number of the electric utility's customers and the effects that energy consumption and energy demand have on the amount of revenue recovered through the electric utility's base rates.

2. The GCCR rates must not include estimated costs.

3. The GCCR rate for each rate class will be calculated using the following formula: $GCCR_{class} = \frac{RR_{class}}{BD_{class}}$
(4) The values of the terms used in this subsection will be calculated as follows:

(A) $RR_{class} = RR_{tot} \times ALLOC_{class}$

(B) $RR_{tot} = TRAF \times \left( (PGFIC \times ROR_{c}) + PGFDEPR + PGFFIT + PGFOT \right)$

(C) $ALLOC_{class} = ALLOC_{cclass} \times \left( \frac{(BD_{class}}{BD_{ALLOC}} \right)$

(5) The terms used in this subsection represent or are defined as follows:

(A) Descriptions of calculated values.

(i) $GCCR_{class}$--GCCR rate for a rate class.

(ii) $RR_{class}$--GCCR class revenue requirement.

(iii) $RR_{tot}$--Total GCCR revenue requirement.

(iv) $ALLOC_{class}$--GCCR class allocation factor for a rate class.

(B) GCCR billing determinants and power generation facility values.

(i) $BD_{class}$--GCCR billing determinants that are weather-normalized.

(ii) $PGFIC$--Power generation facility net invested capital.

(iii) $PGFDEPR$--Power generation facility depreciation expense.

(iv) $PGFFIT$--Federal income tax expense associated with the return on the power generation facility net invested capital, reduced by any tax credits related to the power generation facility that are not returned to customers as a credit or other offset to eligible fuel expense.

(v) $PGFOT$--Other tax expense associated with the power generation facility.

(C) Baseline values. The following values are based on those values used to establish rates in the electric utility's most recent base-rate proceeding, or if an input to the GCCR calculation from the electric utility's last base-rate proceeding is not separately identified in that proceeding, it will be derived from information from that proceeding:

(i) $TRAF$--Texas retail jurisdiction production allocation factor value used to establish rates in the electric utility's last base-rate proceeding determined under the provisions of subsection (e) of this section.

(ii) $BD_{class}$--Rate class billing determinants used to establish generation base rates in the last base-rate proceeding. Energy-based billing determinants will be used for those rate classes that do not include any rate demand charges, and demand-based billing determinants will be used for those rate classes that include rate demand charges.

(iii) $ROR_{c}$--After-tax rate of return approved by the commission in the electric utility's last base-rate proceeding.

(iv) $ALLOC_{class}$--Rate class allocation factor value determined under the provisions of subsection (e) of this section.

(e) Jurisdictional and class allocation factors. For calculating GCCR rates, the baseline jurisdictional and rate-class allocation factors used to allocate generation invested capital in the last base-rate proceeding will be used.

(f) Customer classification. For the purposes of establishing GCCR rates, customers will be classified according to the rate classes established in the electric utility's most recently completed base-rate proceeding.

(g) GCCR application. An electric utility may file an application for a GCCR before the utility places a power generation facility in service. The proceeding for a GCCR application must conform to the requirements of this subsection.

(1) Scope of proceeding. The issues of whether generation invested capital included in an application for a GCCR complies with PURA and is prudent, reasonable, and necessary will not be addressed in a GCCR proceeding.

(2) Notice. The applicant must notify all parties in the applicant's last base-rate proceeding that an application was filed. The notice must be provided by first-class mail and mailed the same day the application is filed. The notice must specify the docket number assigned to the application and a copy of the application must be included with the notice.

(3) Parties and intervention. Requests to intervene must be filed no later than 10 calendar days after the date the application is filed. Objections to a request to intervene must be filed no later than five working days after the request is filed. All requests to intervene must be ruled upon no later than 21 calendar days after the application is filed.

(4) GCCR forms. If the commission adopts a form for GCCR applications, an electric utility must file its application using that form.

(5) Sufficiency of application. A motion to find the application materially deficient must be filed no later than 10 calendar days after the application is filed. A motion to find an amended application deficient, when the amendment is in response to an order issued under this paragraph, must be filed no later than five working days after the amended application is filed. The motion must specify the nature of any alleged deficiency and, if the commission has adopted a form for a GCCR application, the particular requirements of the form for which the application is alleged to be out of compliance. The applicant's response to such motion must be filed no later than five working days after the motion is filed. Within five working days of the applicant's response, the presiding officer must issue an order finding the application sufficient or deficient, and if deficient must specify the deficiencies and the time within which the applicant must amend its application to cure the deficiencies. If the presiding officer has not issued a written order within 35 calendar days of the filing of the application, or 25 calendar days of the filing of an amended application, concluding that material deficiencies exist in the application, the application is sufficient.

(6) Action on application. If the requirements of §22.35 of this title (relating to Informal Disposition) are met, the presiding officer must issue a notice of approval within 60 calendar days of the date an application is found to be sufficient by order or rule. The presiding officer may extend this time if a party demonstrates that additional time is needed to review the application or the presiding officer needs additional time to prepare the notice of approval. Further, if the presiding officer determines that the application should be considered by the commission, the presiding officer must issue a proposed order for consideration by the commission at the next available open meeting.

(h) Update of generation invested capital. Within 60 calendar days after a power generation facility included in a GCCR begins providing service to the electric utility's customers, the electric utility may file an application to update the GCCR to reflect the electric utility's actual capital investment in the power generation facility. An application
to update the GCRR under this subsection is subject to the requirements in subsection (g) of this section. Any update to the GCRR made under this subsection must include carrying costs on the amount of investment in excess of the investment initially approved for recovery under subsection (g) of this section. Carrying costs will accrue monthly from the date the power generation facility began providing service to the electric utility’s customers through the date the adjustment is approved and must be calculated using the rate of return approved by the commission in the electric utility’s most recent base-rate proceeding.

(i) Reconciliation.

(1) Amounts recovered through a GCRR approved under this section are subject to reconciliation in the first base-rate proceeding for the electric utility that is filed after the effective date of the GCRR. The reconciliation will true up the total amount actually recovered through the GCRR approved under this section with the total revenue requirement that the approved GCRR was designed to recover. As part of the reconciliation, the commission will determine if the amounts recovered through the GCRR are reasonable and necessary.

(2) Any amounts recovered through the GCRR that are found to have been unreasonable, unnecessary, or imprudent, plus the corresponding return and taxes, must be refunded with carrying costs. Carrying costs will be determined as follows:

(A) For the time period beginning with the date on which over-recovery is determined to have begun to the effective date of the electric utility’s base rates set in the base-rate proceeding in which the GCRR is reconciled, carrying costs will accrue monthly and will be calculated using an effective monthly interest rate based on the same rate of return that was applied to the investments included in the GCRR.

(B) For the time period beginning with the effective date of the electric utility’s rates set in the base-rate proceeding in which the GCRR is reconciled, carrying costs will accrue monthly and will be calculated using an effective monthly interest rate based on the electric utility’s rate of return authorized in that base-rate proceeding.

(j) Threshold to initiate base-rate proceeding. If a GCRR approved under this section includes cumulative incremental recovery for a power generation facility or power generation facilities where the amount of generation invested capital is greater than $200 million on a Texas jurisdictional basis, the electric utility must initiate a base-rate proceeding at the commission not later than 18 months after the date the GCRR takes effect.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency’s legal authority to adopt.

Filed with the Office of the Secretary of State on February 24, 2020.

TRD-202000798
Andrea Gonzalez
Rules Coordinator
Public Utility Commission of Texas
Earliest possible date of adoption: April 5, 2020
For further information, please call: (512) 936-7244

TITLE 19. EDUCATION
PART 2. TEXAS EDUCATION AGENCY

CHAPTER 66. STATE ADOPTION AND DISTRIBUTION OF INSTRUCTIONAL MATERIALS
SUBCHAPTER DD. INSTRUCTIONAL MATERIALS PORTAL

19 TAC §66.1403

The Texas Education Agency (TEA) proposes an amendment to §66.1403, concerning instructional materials to be included in the instructional materials portal. The proposed amendment would modify the rule to specify how the State Board of Education (SBOE) may nominate an instructional material for inclusion in the evaluation of quality (EoQ) process.

BACKGROUND INFORMATION AND JUSTIFICATION: Section 66.1403 describes the instructional materials that will be included in the instructional materials portal and specifies the considerations the TEA will use in determining the sequence and scheduling of quality reviews. Subsection (a)(2) states that a member of the SBOE may request that an instructional material be included in the EoQ process.

The proposed amendment to §66.1403 would change the provision in subsection (a)(2) to specify that a request to include instructional materials in the EoQ process must be in the form of a nomination made by the SBOE. This proposed change is in response to a recommendation made by the SBOE, Texas Resource Review Ad Hoc Committee and adopted by the SBOE.

FISCAL IMPACT: Kristen Dobson, associate commissioner for product strategy, has determined that for the first five-year period the proposal is in effect there are no additional costs to state or local government, including school districts and open-enrollment charter schools, required to comply with the proposal.

LOCAL EMPLOYMENT IMPACT: The proposal has no effect on local economy; therefore, no local employment impact statement is required under Texas Government Code, §2001.022.

SMALL BUSINESS, MICROBUSINESS, AND RURAL COMMUNITY IMPACT: The proposal has no direct adverse economic impact for small businesses, microbusinesses, or rural communities; therefore, no regulatory flexibility analysis, specified in Texas Government Code, §2006.002, is required.

COST INCREASE TO REGULATED PERSONS: The proposal does not impose a cost on regulated persons, another state agency, a special district, or a local government and, therefore, is not subject to Texas Government Code, §2001.0045.

TAKINGS IMPACT ASSESSMENT: The proposal does not impose a burden on private real property and, therefore, does not constitute a taking under Texas Government Code, §2007.043.

GOVERNMENT GROWTH IMPACT: TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would limit an existing regulation and would increase the number of individuals subject to its applicability. The proposed amendment would limit an existing regulation by limiting the authority of an individual SBOE member to request that an instructional material be included in the EoQ process. The proposal would require that the request be approved by a majority of the members of the SBOE, thereby increasing the number of individuals subject to its applicability by increasing the number of SBOE members required to make the request.
The proposed rulemaking would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not create a new regulation; would not expand or repeal an existing regulation; would not decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state’s economy.

PUBLIC BENEFIT AND COST TO PERSONS: Ms. Dobson has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposal would be ensuring that instructional materials recommended by the SBOE to be included in the EoQ process reflect the intent of a majority of board members. There is no anticipated economic cost to persons who are required to comply with the proposal.

DATA AND REPORTING IMPACT: The proposal would have no data and reporting impact.

PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS: The TEA has determined that the proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

PUBLIC COMMENTS: The public comment period on the proposal begins March 6, 2020, and ends April 6, 2020. A request for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 14 calendar days after notice of the proposal has been published in the Texas Register on March 6, 2020. A form for submitting public comments is available on the TEA website at https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_(TAC)/Proposed_Commissioner_of_Education_Rules/. Comments on the proposal may also be submitted to Cristina De La Fuente-Valadez, Rulemaking, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701.

STATUTORY AUTHORITY. The amendment is proposed under Texas Education Code (TEC), §31.081, which requires the commissioner to develop and maintain a web portal to assist school districts and open-enrollment charter schools in selecting instructional materials; and TEC, §31.082, which requires the commissioner to contract with a private entity to conduct an independent analysis of each instructional material submitted by a publisher for inclusion in the web portal developed under TEC, §31.081.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code, §§31.081 and 31.082.

§66.1403. Instructional Materials to be Included in the Instructional Materials Portal.

(a) Instructional materials may be included in the evaluation of quality (EoQ) process if:

(1) a publisher or an open education resource (OER) licensor submits instructional materials through the EoQ submission process;

(2) [a member of] the State Board of Education nominates [requests in writing that] an instructional material for inclusion [be included] in an EoQ; or

(3) more than 10% of local education agencies request in a format determined by the Texas Education Agency (TEA) that an instructional material be included in an EoQ.

(b) The following instructional materials may be included in the instructional materials web portal:

(1) instructional materials submitted by TEA; and

(2) OERs submitted directly to TEA through the OER submission process for inclusion in the OER repository. OER materials may not be included in the repository unless:

(A) a publisher or other OER licensor submits such materials through the EoQ submission process;

(B) TEA submits such materials for which TEA is the OER licensor for the purposes of being reviewed for quality; or

(C) the materials are submitted in accordance with subsection (a)(2) or (3) of this section.

(c) Instructional materials included in the EoQ process shall be included in the instructional materials portal.

(d) TEA may determine the sequence and scheduling of quality reviews based on the following considerations:

(1) the availability and allocation of resources for completion of quality reviews;

(2) the needs of public schools in Texas;

(3) the timing of submission to TEA; and

(4) other factors deemed relevant by TEA to maximize the effectiveness of the quality review process.

(e) TEA may exclude from the quality review process a submission that does not constitute an instructional material.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency’s legal authority to adopt.

Filed with the Office of the Secretary of State on February 24, 2020.

TRD-202000804

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Earliest possible date of adoption: April 5, 2020

For further information, please call: (512) 475-1497

CHAPTER 74. CURRICULUM REQUIREMENTS

SUBCHAPTER B. GRADUATION REQUIREMENTS

19 TAC §§74.11 - 74.13

The State Board of Education (SBOE) proposes amendments to §§74.11-74.13, concerning curriculum requirements. The proposed amendments would update the rules to align with the requirements of House Bill (HB) 678, 86th Texas Legislature, 2019, and revisions to career and technical education (CTE) programs of study.
BACKGROUND INFORMATION AND JUSTIFICATION: The 83rd Texas Legislature, Regular Session, 2013, passed HB 5, amending Texas Education Code (TEC), §28.025, to transition from three high school graduation programs to one foundation high school program with endorsement options to increase flexibility for students. HB 5 gave the SBOE the authority to identify advanced courses related to the new graduation program, identify the curriculum requirements for the endorsements, and determine the requirements for performance acknowledgments related to the graduation program.

The 86th Texas Legislature, 2019, passed HB 678, which amended TEC, §28.025(b-21), to allow elementary school students to earn one high school credit toward the languages other than English (LOTE) graduation requirement by successfully completing a course in American Sign Language (ASL).

The 86th Texas Legislature, 2019, also passed HB 963, which requires the SBOE, not later than March 1, 2020, to conduct a review of the Texas Essential Knowledge and Skills (TEKS) for CTE and technology applications courses for Grades 9-12 and amend the board’s rules to consolidate courses and eliminate duplicative courses. The SBOE is required to implement this provision only if the legislature appropriated money specifically for that purpose. If the legislature did not appropriate money specifically for that purpose, the SBOE may, but is not required to, implement a requirement using other appropriations available for that purpose. The legislature did not appropriate money specifically for the purpose of implementing this requirement.

Texas is redesigning state-level programs of study to include coherent and rigorous content with challenging academic standards and relevant career and technical content. Programs of study will be aligned with state and regional labor market information, including high-wage, high-skill, and in-demand occupations. As a part of the program of study revision process, Texas conducted a statewide labor market analysis that discovered several instances where occupations and postsecondary training overlap.

The proposed amendments to §§74.11-74.13 would update the graduation requirements to reflect changes to the rules on endorsements to reflect the revised programs of study and to ensure that a student who completed a program of study could earn one of the endorsements. Additionally, the proposed amendments would update the rules to align with the consolidation of the high school technology applications and CTE TEKS, allow students who completed an ASL course in elementary school to earn one high school credit toward the LOTE graduation requirement, and clarify language regarding the requirements for satisfying a LOTE graduation requirement by completing a dual language immersion program while in elementary school.

The SBOE approved the proposed amendments for first reading and filing authorization at its January 31, 2020 meeting.

FISCAL IMPACT: Monica Martinez, associate commissioner for standards and support services, has determined that for the first five-year period the proposal is in effect there are no additional costs to state or local government required to comply with the proposal.

LOCAL EMPLOYMENT IMPACT: The proposal has no effect on local economy; therefore, no local employment impact statement is required under Texas Government Code, §2001.022.

SMALL BUSINESS, MICROBUSINESS, AND RURAL COMMUNITY IMPACT: The proposal has no direct adverse economic impact for small businesses, microbusinesses, or rural communities; therefore, no regulatory flexibility analysis specified in Texas Government Code, §2006.002, is required.

COST INCREASE TO REGULATED PERSONS: The proposal does not impose a cost on regulated persons, another state agency, a special district, or a local government and, therefore, is not subject to Texas Government Code, §2001.0045.

TAKINGS IMPACT ASSESSMENT: The proposal does not impose a burden on private real property and, therefore, does not constitute a taking under Texas Government Code, §2007.043.

GOVERNMENT GROWTH IMPACT: Texas Education Agency (TEA) staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking would expand an existing regulation by allowing elementary school students to earn one high school credit toward the LOTE graduation requirement by successfully completing a course in ASL. The proposed rulemaking would also expand a regulation by allowing students to fulfill graduation requirements by completing courses in a new career cluster for CTE.

The proposed rulemaking would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not create a new regulation; would not limit or repeal an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state’s economy.

PUBLIC BENEFIT AND COST TO PERSONS: Ms. Martinez has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposal would be providing added flexibility in course options for students to meet high school graduation requirements. There is no anticipated economic cost to persons who are required to comply with the proposal.

DATA AND REPORTING IMPACT: The proposal would have no new data and reporting impact.

PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS: TEA has determined that the proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

PUBLIC COMMENTS: The public comment period on the proposal begins March 6, 2020, and ends April 10, 2020. A form for submitting public comments is available on the TEA website at https://tea.texas.gov/About_TEA/Laws_and_Rules/SBOE_Rules_(TAC)/Proposed_StateBoard_of_Education_Rules/. Comments on the proposal may also be submitted to Cristina De La Fuente-Valadez, Rulemaking, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701. The SBOE will take registered oral and written comments on the proposal at the appropriate committee meeting in April 2020 in accordance with the SBOE board operating policies and procedures. A request for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 14 calendar days after notice of the proposal has been published in the Texas Register on March 6, 2020.

STATUTORY AUTHORITY. The amendments are proposed under Texas Education Code (TEC), §7.102(c)(4), which requires...
§74.11. High School Graduation Requirements.

(a) - (f) (No change.)

(g) Elective credits may be selected from the following:

1. high school courses not required for graduation that are listed in the following chapters of this title:
   A. Chapter 110 of this title (relating to Texas Essential Knowledge and Skills for English Language Arts and Reading);
   B. Chapter 111 of this title (relating to Texas Essential Knowledge and Skills for Mathematics);
   C. Chapter 112 of this title (relating to Texas Essential Knowledge and Skills for Science);
   D. Chapter 113 of this title (relating to Texas Essential Knowledge and Skills for Social Studies);
   E. Chapter 114 of this title (relating to Texas Essential Knowledge and Skills for Languages Other Than English);
   F. Chapter 115 of this title (relating to Texas Essential Knowledge and Skills for Health Education);
   G. Chapter 116 of this title (relating to Texas Essential Knowledge and Skills for Physical Education);
   H. Chapter 117 of this title (relating to Texas Essential Knowledge and Skills for Fine Arts);
   [(I) Chapter 126 of this title (relating to Texas Essential Knowledge and Skills for Technology Applications);]
   J. Chapter 127 of this title (relating to Texas Essential Knowledge and Skills for Career Development); and
   K. Chapter 130 of this title (relating to Texas Essential Knowledge and Skills for Career and Technical Education);

2. state-approved innovative courses as specified in §74.27 of this title (relating to Innovative Courses and Programs);

3. Junior Reserve Officer Training Corps (JROTC)–one to four credits; and

4. Driver Education–one-half credit.

(h) - (n) (No change.)

§74.12. Foundation High School Program.

(a) (No change.)

(b) Core courses. A student must demonstrate proficiency in the following:

1. - (4) (No change.)

5. Languages other than English (LOTE)–two credits.

A. The credits may be selected from the following:

(i) any two levels in the same language, including comparable AP or IB language courses that do not count toward another credit required for graduation; or

(ii) two credits in computer programming languages, including computer coding, to be selected from Computer Science I, II, and III, AP Computer Science Principles, AP Computer Science A, IB Computer Science Standard Level, and IB Computer Science Higher Level.

B. A single two-credit IB LOTE course may only satisfy one LOTE requirement.

(C) If a student, in completing the first credit of LOTE, demonstrates that the student is unlikely to be able to complete the second credit, the student may substitute another appropriate course as follows:

(i) Special Topics in Language and Culture;

(ii) World History Studies or World Geography Studies for a student who is not required to complete both by the local district;

(iii) another credit selected from Chapter 114 of this title (relating to Texas Essential Knowledge and Skills for Languages Other Than English); or

(iv) computer programming languages, including computer coding.

(D) The determination of a student's ability to complete the second credit of LOTE must be agreed to by:

(i) the teacher of the first LOTE credit course or another LOTE teacher designated by the school district, the principal or designee, and the student's parent or person standing in parental relation;

(ii) the student's admission, review, and dismissal (ARD) committee if the student receives special education services under the TEC, Chapter 29, Subchapter A; or

(iii) the committee established for the student under Section 504, Rehabilitation Act of 1973 (29 United States Code, Section 794) if the student does not receive special education services under the TEC, Chapter 29, Subchapter A, but is covered by the Rehabilitation Act of 1973.

(E) A student, who due to a disability, is unable to complete two credits in the same language in a language other than English, may substitute a combination of two credits that are not being used to satisfy another specific graduation requirement selected from English language arts, mathematics, science, or social studies or two credits in career and technical education or technology applications for the LOTE credit requirements. The determination regarding a student's ability to complete the LOTE credit requirements will be made by:

(i) the student's ARD committee if the student receives special education services under the TEC, Chapter 29, Subchapter A; or
(ii) the committee established for the student under Section 504, Rehabilitation Act of 1973 (29 United States Code, Section 794) if the student does not receive special education services under the TEC, Chapter 29, Subchapter A, but is covered by the Rehabilitation Act of 1973.

(F) A student who successfully completes a dual language immersion/two-way or dual language immersion/one-way program in accordance with §89.1210(d)(3) and (4) of this title (relating to Program Content and Design), §89.1227 of this title (relating to Minimum Requirements for Dual Language Immersion Program Model), and §89.1228 of this title (relating to Two-Way Dual Language Immersion Program Model Implementation) at an elementary school may satisfy one credit of the two credits required in a language other than English.

(i) To successfully complete a dual language immersion program, a student must:

(I) have participated in a dual language immersion program for at least five consecutive school years;

(II) achieve high levels of academic competence as demonstrated by performance of meets or masters grade level on both the mathematics and reading State of Texas Assessments of Academic Readiness (STAAR®) in English or Spanish, as applicable, in at least one grade level; and

(III) achieve proficiency in both English and a language other than English as demonstrated by scores of proficient or higher in the reading and speaking domains on language proficiency or achievement tests in both languages.

(ii) The second credit of a language other than English must be in the same language as the successfully completed dual language immersion program.

(G) A student who successfully completes a course in American Sign Language while in elementary school may satisfy one credit of the two credits required in a language other than English.

(6) - (7)  No change.

(c) - (d)  No change.

§74.13. Endorsements.

(a) - (c)  No change.

(d) A school district may define advanced courses and determine a coherent sequence of courses for an endorsement area, provided that prerequisites in Chapters 110-117, [126,] 127, and 130 of this title are followed.

(e)  No change.

(f) A student may earn any of the following endorsements.

(1) Science, technology, engineering, and mathematics (STEM). A student may earn a STEM endorsement by completing the requirements specified in subsection (e) of this section, including Algebra II, chemistry, and physics or Principles of Technology and:

(A) a coherent sequence of courses for four or more credits in career and technical education (CTE) that consists of at least two courses in the same career cluster and at least one advanced CTE course. The courses may be selected from Chapter 130 of this title (relating to Texas Essential Knowledge and Skills for Career and Technical Education), Chapter 127 of this title (relating to Texas Essential Knowledge and Skills for Career Development), or CTE innovative courses approved by the commissioner of education. The final course in the sequence must be selected from Chapter 130, Subchapter O, of this title (relating to Science, Technology, Engineering, and Mathematics) or Career Preparation I or II and Project-Based Research in Chapter 127, Subchapter B, of this title (relating to High School), if the course addresses a STEM-related field; or

(B) courses required to complete a TEA-designated program of study related to STEM; or

[(B) a coherent sequence of four credits in computer science selected from the following:]

[(i) Fundamentals of Computer Science; or]
[(ii) Computer Science I; or]
[(iii) Computer Science II; or]
[(iv) Computer Science III; or]
[(v) Digital Forensics; or]
[(vi) Discrete Mathematics for Computer Science; or]
[(vii) Game Programming and Design; or]
[(viii) Mobile Application Development; or]
[(ix) Robotics Programming and Design; or]
[(x) Independent Studies in Technology Applications; or]
[(xi) AP Computer Science A; or]
[(xii) AP Computer Science Principles; or]
[(xiii) IB Computer Science, Standard Level; or]
[(xiv) IB Computer Science, Higher Level; or]

(C) three credits in mathematics by successfully completing Algebra II and two additional mathematics courses for which Algebra II is a prerequisite by selecting courses from subsection (e)(2) of this section; or

(D) four credits in science by successfully completing chemistry, physics, and two additional science courses by selecting courses from subsection (e)(6) of this section; or

[(E) a coherent sequence of four courses in cybersecurity to consist of Foundations of Cybersecurity and Cybersecurity Capstone and two additional courses to be selected from the following:]

[(i) AP Computer Science A; or]
[(ii) Computer Science I; or]
[(iii) AP Computer Science Principles; or]
[(iv) Digital Forensics; or]
[(v) Computer Maintenance; or]
[(vi) Internetworking Technologies I; or]
[(vii) Internetworking Technologies II; or]
[(viii) Networking; or]

[(E) [(F)] in addition to Algebra II, chemistry, and physics, a coherent sequence of three additional credits from no more than two of the categories or disciplines represented by subparagraphs (A), (B), (C), and (D) of this paragraph.

(2) Business and industry. A student may earn a business and industry endorsement by completing the requirements specified in subsection (e) of this section and:
(A) a coherent sequence of courses for four or more credits in CTE that consists of at least two courses in the same career cluster and at least one advanced CTE course. The courses may be selected from Chapter 130 of this title, Chapter 127 of this title, or CTE innovative courses approved by the commissioner. The final course in the sequence must be selected from one of the following:

(i) Chapter 130, Subchapter A, of this title (relating to Agriculture, Food, and Natural Resources); or

(ii) Chapter 130, Subchapter B, of this title (relating to Architecture and Construction); or

(iii) Chapter 130, Subchapter C, of this title (relating to Arts, Audio/Video Technology, and Communications); or

(iv) Chapter 130, Subchapter D, of this title (relating to Business Management and Administration); or

(v) Chapter 130, Subchapter F, of this title (relating to Finance); or

(vi) Chapter 130, Subchapter I, of this title (relating to Hospitality and Tourism); or

(vii) Chapter 130, Subchapter K, of this title (relating to Information Technology); or

(viii) Chapter 130, Subchapter M, of this title (relating to Manufacturing); or

(ix) Chapter 130, Subchapter N, of this title (relating to Marketing); or

(x) Chapter 130, Subchapter P, of this title (relating to Transportation, Distribution, and Logistics); or

(xi) Chapter 130, Subchapter Q, of this title (relating to Energy); or

(xii) Career Preparation I or II and Project-Based Research in Chapter 127, Subchapter B, of this title if the course addresses a career from a field listed in clauses (i)-(xi) [i)-(xii)] of this subparagraph; or

(B) courses required to complete a TEA-designated program of study related to business and industry; or

(C) four English credits by selecting courses from Chapter 110 of this title to include three levels in one of the following areas:

(i) public speaking; or

(ii) debate; or

(iii) advanced broadcast journalism; or

(iv) advanced journalism: newspaper; or

(v) advanced journalism: yearbook; or

(vi) advanced journalism: literary magazine; or

[C] four technology applications credits by selecting from the following:

[i] Digital Design and Media Production; or

[ii] Digital Art and Animation; or

[iii] 3-D Modeling and Animation; or

[iv] Digital Communications in the 21st Century; or

[v] Digital Video and Audio Design; or

[vi] Web Communications; or

[vii] Web Design; or

[viii] Web Game Development; or

(ix) Independent Study in Evolving/Emerging Technologies; or

(D) a coherent sequence of four credits from subparagraph (A), (B), or (C) of this paragraph.

(3) Public services. A student may earn a public services endorsement by completing the requirements specified in subsection (e) of this section and:

(A) a coherent sequence of courses for four or more credits in CTE that consists of at least two courses in the same career cluster and at least one advanced CTE course. The courses may be selected from Chapter 130 of this title, Chapter 127 of this title, or CTE innovative courses approved by the commissioner. The final course in the sequence must be selected from one of the following:

(i) Chapter 130, Subchapter E, of this title (relating to Education and Training); or

(ii) Chapter 130, Subchapter G, of this title (relating to Government and Public Administration); or

(iii) Chapter 130, Subchapter H, of this title (relating to Health Science); or

(iv) Chapter 130, Subchapter J, of this title (relating to Human Services); or

(v) Chapter 130, Subchapter L, of this title (relating to Law, Public Safety, Corrections, and Security); or

(vi) Career Preparation I or II and Project-Based Research in Chapter 127, Subchapter B, of this title if the course addresses a field from a cluster listed in clauses (i)-(v) of this subparagraph; or

(B) courses required to complete a TEA-designated program of study related to public services; or

(C) four courses in Junior Reserve Officer Training Corps (JROTC).

(4) Arts and humanities. A student may earn an arts and humanities endorsement by completing the requirements specified in subsection (e) of this section and:

(A) five social studies credits by selecting courses from Chapter 113 of this title; or

(B) four levels of the same language in a language other than English by selecting courses in accordance with Chapter 114 of this title, which may include Advanced Language for Career Applications; or

(C) two levels of the same language in a language other than English and two levels of a different language in a language other than English by selecting courses in accordance with Chapter 114 of this title; or

(D) four levels of American sign language by selecting courses in accordance with Chapter 114 of this title; or

(E) a coherent sequence of four credits by selecting courses from one or two categories or disciplines in fine arts from Chapter 117 of this title or innovative courses approved by the commissioner; or

(F) four English credits by selecting from the following:
CHAPTER 105. FOUNDATION SCHOOL PROGRAM
SUBCHAPTER B. USE OF STATE FUNDS
19 TAC §105.11, §105.12

The State Board of Education (SBOE) proposes the repeal of §105.11 and §105.12, concerning use of state funds. The proposed repeals would implement House Bill (HB) 3, 86th Texas Legislature, 2019, which removed the SBOE’s rulemaking authority related to maximum allowable indirect costs and the basic allotment for the Foundation School Program (FSP).

BACKGROUND INFORMATION AND JUSTIFICATION: Section 105.11 establishes the limits that may be expended from special allotments on indirect costs related to compensatory education, bilingual education, special language programs, and special education.

Section 105.12 explains the authorized use of state aid for acquisitions, renovation, repairs, and maintenance of facilities.

HB 3, 86th Texas Legislature, 2019, renumbered Texas Education Code, §42.004, to §48.004. The renumbered statute was amended to remove the SBOE’s rulemaking authority related to maximum allowable indirect costs and the basic allotment for the FSP. The repeal of the rules is necessary since statutory authority no longer exists.

The SBOE approved the proposed repeals for first reading and filing authorization at its January 31, 2020 meeting.

FISCAL IMPACT: Leo Lopez, associate commissioner for school finance/chief school finance officer, has determined that for the first five-year period the proposal is in effect there are no additional costs to state or local government required to comply with the proposal.

LOCAL EMPLOYMENT IMPACT: The proposal has no effect on local economy; therefore, no local employment impact statement is required under Texas Government Code, §2001.022.

SMALL BUSINESS, MICROBUSINESS, AND RURAL COMMUNITY IMPACT: The proposal has no direct adverse economic impact for small businesses, microbusinesses, or rural communities, therefore, no regulatory flexibility analysis specified in Texas Government Code, §2006.002, is required.

COST INCREASE TO REGULATED PERSONS: The proposal does not impose a cost on regulated persons, another state agency, a special district, or a local government and, therefore, is not subject to Texas Government Code, §2001.0045.

TAKINGS IMPACT ASSESSMENT: The proposal does not impose a burden on private real property and, therefore, does not constitute a taking under Texas Government Code, §2007.043.

GOVERNMENT GROWTH IMPACT: Texas Education Agency (TEA) staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking would repeal existing regulations. Section 105.11 and §105.12 would be repealed to implement HB 3, 86th Texas Legislature, 2019, which removed the SBOE’s rulemaking authority related to maximum allowable indirect costs and the basic allotment for the FSP.

The proposed rulemaking would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not create a new regulation; would not expand or limit an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state’s economy.
PUBLIC BENEFIT AND COST TO PERSONS: Mr. Lopez has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposal would be implementing legislation by removing rules for which statutory authority no longer exists. There is no anticipated economic cost to persons who are required to comply with the proposal.

DATA AND REPORTING IMPACT: The proposal would have no new data and reporting impact.

PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS: TEA has determined that the proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

PUBLIC COMMENTS: The public comment period on the proposal begins March 6, 2020, and ends April 10, 2020. A form for submitting public comments is available on the TEA website at https://tea.texas.gov/About_TEA/Laws_and_Rules/SBOE_Rules_(TAC)/Proposed_State_Board_of_Education_Rules/. Comments on the proposal may also be submitted to Cristina De La Fuente-Valadez, Rulemaking, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701. The SBOE will take registered oral and written comments on the proposal at the appropriate committee meeting in April 2020 in accordance with the SBOE board operating policies and procedures. A request for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 14 calendar days after notice of the proposal has been published in the Texas Register on March 6, 2020.

STATUTORY AUTHORITY. The repeals are proposed under Texas Education Code, §48.004, as transferred, redesignated, and amended by House Bill 3, 86th Texas Legislature, 2019, which requires the commissioner to adopt rules, take actions, and require reports necessary to implement and administer the Foundation School Program.

CROSS REFERENCE TO STATUTE. The repeals implement Texas Education Code, §48.004, as transferred, redesignated, and amended by House Bill 3, 86th Texas Legislature, 2019.

§105.11. Maximum Allowable Indirect Cost.

§105.12. Basic Allotment.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 24, 2020.

TRD-202000811
Cristina De La Fuente-Valadez
Director, Rulemaking
Texas Education Agency
Earliest possible date of adoption: April 5, 2020
For further information, please call: (512) 475-1497

CHAPTER 110. TEXAS ESSENTIAL KNOWLEDGE AND SKILLS FOR ENGLISH LANGUAGE ARTS AND READING

The State Board of Education (SBOE) proposes the repeal of §§110.30-110.34 and 110.85, concerning Texas Essential Knowledge and Skills (TEKS) for English language arts and reading. The proposed repeals would remove the TEKS adopted to be effective in 2009 for high school English language arts and reading and related implementation language that will be superseded by new 19 TAC §§110.35-110.39 beginning with the 2020-2021 school year.

BACKGROUND INFORMATION AND JUSTIFICATION: In 2017, the SBOE adopted revisions to the English language arts and reading TEKS. The revised TEKS for high school are scheduled to be implemented beginning with the 2020-2021 school year.

With the implementation of the revised English language arts and reading TEKS for high school scheduled for the 2020-2021 school year, the current TEKS in 19 TAC §§110.30-110.34 and 110.85 are no longer needed and may now be repealed.

The SBOE approved the proposed repeals for first reading and filing authorization at its January 31, 2020 meeting.

FISCAL IMPACT: Monica Martinez, associate commissioner for standards and support services, has determined that for the first five-year period the proposal is in effect there are no additional costs to state or local government required to comply with the proposal.

LOCAL EMPLOYMENT IMPACT: The proposal has no effect on local economy; therefore, no local employment impact statement is required under Texas Government Code, §2001.022.

SMALL BUSINESS, MICROBUSINESS, AND RURAL COMMUNITY IMPACT: The proposal has no direct adverse economic impact for small businesses, microbusinesses, or rural communities; therefore, no regulatory flexibility analysis specified in Texas Government Code, §2006.002, is required.

COST INCREASE TO REGULATED PERSONS: The proposal does not impose a cost on regulated persons, another state agency, a special district, or a local government and, therefore, is not subject to Texas Government Code, §2001.0045.

TAKINGS IMPACT ASSESSMENT: The proposal does not impose a burden on private real property and, therefore, does not constitute a taking under Texas Government Code, §2007.043.

GOVERNMENT GROWTH IMPACT: Texas Education Agency (TEA) staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking would repeal existing regulations by removing rules that will be superseded beginning with the 2020-2021 school year.

The proposed rulemaking would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not create a new regulation; would not expand or limit an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

PUBLIC BENEFIT AND COST TO PERSONS: Ms. Martinez has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposal would be the removal of language that will be superseded by new rules beginning with the 2020-2021 school year.
year to avoid confusion. There is no anticipated economic cost to persons who are required to comply with the proposal.

DATA AND REPORTING IMPACT: The proposal would have no data and reporting impact.

PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS: TEA has determined that the proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

PUBLIC COMMENTS: The public comment period on the proposal begins March 6, 2020, and ends April 10, 2020. A form for submitting public comments is available on the TEA website at https://tea.texas.gov/About_TEA/Laws_and_Rules/SBOE_Rules_(TAC)/Proposed_StateBoard_ofEducation_Rules/. Comments on the proposal may also be submitted to Cristina De La Fuente-Valadez, Rulemaking, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701. The SBOE will take registered oral and written comments on the proposal at the appropriate committee meeting in April 2020 in accordance with the SBOE board operating policies and procedures. A request for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 14 calendar days after notice of the proposal has been published in the Texas Register on March 6, 2020.

SUBCHAPTER C. HIGH SCHOOL

19 TAC §§110.30 - 110.34

STATUTORY AUTHORITY. The repeals are proposed under Texas Education Code (TEC), §7.102(c)(4), which requires the State Board of Education (SBOE) to establish curriculum and graduation requirements; TEC, §28.002(a), which identifies the subjects of the required curriculum; TEC, §28.002(c), which requires the SBOE to by rule identify the essential knowledge and skills of each subject in the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials and addressed on the state assessment instruments; and TEC, §28.025(a), which requires the SBOE to by rule determine the curriculum requirements for the foundation high school graduation program that are consistent with the required curriculum under the TEC, §28.002.

CROSS REFERENCE TO STATUTE. The repeals implement Texas Education Code, §§7.102(c)(4); 28.002(a) and (c); and 28.025(a).

§110.30. Implementation of Texas Essential Knowledge and Skills for English Language Arts and Reading, High School, Beginning with School Year 2009-2010.

§110.31. English Language Arts and Reading, English I (One Credit), Beginning with School Year 2009-2010.

§110.32. English Language Arts and Reading, English II (One Credit), Beginning with School Year 2009-2010.

§110.33. English Language Arts and Reading, English III (One Credit), Beginning with School Year 2009-2010.

§110.34. English Language Arts and Reading, English IV (One Credit), Beginning with School Year 2009-2010.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 24, 2020.

TRD-202000809
Cristina De La Fuente-Valadez
Director, Rulemaking
Texas Education Agency

Earliest possible date of adoption: April 5, 2020
For further information, please call: (512) 475-1497

SUBCHAPTER D. OTHER HIGH SCHOOL ENGLISH LANGUAGE ARTS AND READING COURSES

19 TAC §110.85

STATUTORY AUTHORITY. The repeal is proposed under Texas Education Code (TEC), §7.102(c)(4), which requires the State Board of Education (SBOE) to establish curriculum and graduation requirements; TEC, §28.002(a), which identifies the subjects of the required curriculum; TEC, §28.002(c), which requires the SBOE to by rule identify the essential knowledge and skills of each subject in the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials and addressed on the state assessment instruments; and TEC, §28.025(a), which requires the SBOE to by rule determine the curriculum requirements for the foundation high school graduation program that are consistent with the required curriculum under the TEC, §28.002.

CROSS REFERENCE TO STATUTE. The repeal implements Texas Education Code, §§7.102(c)(4); 28.002(a) and (c); and 28.025(a).

§110.85. Advanced Placement (AP) International English Language (One Credit).

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 24, 2020.

TRD-202000810
Cristina De La Fuente-Valadez
Director, Rulemaking
Texas Education Agency

Earliest possible date of adoption: April 5, 2020
For further information, please call: (512) 475-1497

CHAPTER 113. TEXAS ESSENTIAL KNOWLEDGE AND SKILLS FOR SOCIAL STUDIES

The State Board of Education (SBOE) proposes an amendment to §113.30, the repeal of §§113.51-113.68 and 113.71-113.80, and new §§113.51, 113.60, 113.61, and 113.101-113.126, concerning Texas Essential Knowledge and Skills (TEKS) for social studies. The proposed rule actions would add TEKS for a new African American studies ethnic studies course, renumber sections, and update references to course numbers and titles to reflect recent revisions to the social studies TEKS.
BACKGROUND INFORMATION AND JUSTIFICATION: The 83rd Texas Legislature, 2013, passed House Bill (HB) 5, amending Texas Education Code, §28.025, to transition from three high school graduation programs to one foundation high school program with endorsements to increase flexibility in graduation requirements for students. In August 2013, the SBOE held a work session to discuss changes to the graduation requirements in order to align with the requirements of HB 5, including discussion of courses required by HB 5.

There are currently state-approved TEKS for general social studies elective courses that allow educators to select specific historical, cultural, or research topics in social studies to address in greater depth. In social studies, these courses include Special Topics in Social Studies, Social Studies Research Methods, Social Studies Advanced Studies, and Ethnic Studies: Mexican American Studies.

In June 2019, a new African American Studies innovative course was approved by the commissioner of education for use beginning with the 2019-2020 school year. School districts and open-enrollment charter schools may offer any state-approved innovative course for elective credit with the approval of the local board of trustees.

Proposed new §113.51 would add TEKS for a new ethnic studies course in African American studies. Existing §§113.51-113.68 and 113.71-113.80 would be repealed and proposed with new section numbers in order to move Social Studies Advanced Studies and Economics Advanced Studies from Subchapter D to the high school courses in Subchapter C and to group the ethnic studies courses together. The content of the renumbered sections would not change except to update references to course numbers and titles in proposed new §§113.102, 113.104-113.106, 113.111, 113.114, and 113.115 to reflect recent revisions to the social studies TEKS. In addition, the implementation language in §113.30 and proposed new §113.101 would be updated to remove outdated references to section numbers and school years.

The SBOE approved the proposed rule revisions for first reading and filing authorization at its January 31, 2020 meeting.

FISCAL IMPACT: Monica Martinez, associate commissioner for standards and support services, has determined that for the first five-year period the proposal is in effect there are no additional costs to state or local government required to comply with the proposal.

LOCAL EMPLOYMENT IMPACT: The proposal has no effect on local economy; therefore, no local employment impact statement is required under Texas Government Code, §2001.022.

SMALL BUSINESS, MICROBUSINESS, AND RURAL COMMUNITY IMPACT: The proposal has no direct adverse economic impact for small businesses, microbusinesses, or rural communities; therefore, no regulatory flexibility analysis specified in Texas Government Code, §2006.002, is required.

COST INCREASE TO REGULATED PERSONS: The proposal does not impose a cost on regulated persons, another state agency, a special district, or a local government and, therefore, is not subject to Texas Government Code, §2001.0045.

TAKINGS IMPACT ASSESSMENT: The proposal does not impose a burden on private real property and, therefore, does not constitute a taking under Texas Government Code, §2007.043.

GOVERNMENT GROWTH IMPACT: Texas Education Agency (TEA) staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking would create new regulations and repeal existing regulations. Proposed new §113.51 would create a new regulation by adding a new TEKS-based course option for students. The remaining rule actions, including repeals and new sections, reflect the renumbering of existing sections.

The proposed rulemaking would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not expand or limit an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

PUBLIC BENEFIT AND COST TO PERSONS: Ms. Martinez has determined that for each year of the first five years the proposal is in effect, the public benefit to persons is $0 as a result of enforcing the proposal would be a new TEKS-based course option for students and increased flexibility in meeting graduation requirements. There is no anticipated economic cost to persons who are required to comply with the proposal.

DATA AND REPORTING IMPACT: The proposal would have no data and reporting impact.

PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS: TEA has determined that the proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

PUBLIC COMMENTS: The public comment period on the proposal begins March 6, 2020, and ends April 10, 2020. A form for submitting public comments is available on the TEA website at https://tea.texas.gov/About_TEA/Laws_and_Rules/SBOE_Rules_(TAC)/Proposed_State_Board_of_Education_Rules/. Comments on the proposal may also be submitted to Cristina De La Fuente-Valadez, Rulemaking, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701. The SBOE will take registered oral and written comments on the proposal at the appropriate committee meeting in April 2020 in accordance with the SBOE board operating policies and procedures. A request for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 14 calendar days after notice of the proposal has been published in the Texas Register on March 6, 2020.

SUBCHAPTER C. HIGH SCHOOL

19 TAC §§113.30, 113.51, 113.60, 113.61

STATUTORY AUTHORITY. The amendment and new sections are proposed under Texas Education Code (TEC), §7.102(c)(4), which requires the State Board of Education (SBOE) to establish curriculum and graduation requirements; TEC, §28.002(a), which identifies the subjects of the required curriculum; TEC, §28.002(c), which requires the SBOE to by rule identify the essential knowledge and skills of each subject in the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials and addressed on the state assessment instruments; and TEC, §28.025(a), which requires the SBOE to by rule determine the curriculum requirements for the foundation high school gradu-
CROSS REFERENCE TO STATUTE. The amendment and new sections implement Texas Education Code, §§7.102(c)(4); 28.002(a) and (c); and 28.025(a).

§113.30. Implementation of Texas Essential Knowledge and Skills for Social Studies, High School; [Adopted 2018].
(a) Implementation of the provisions of this subchapter begins with the effective date of the provision unless otherwise noted.

(b) [aaa] Implementation of the [The] provisions of §§113.31 and §§113.41-113.44 of this subchapter adopted in 2018 begins [shall be implemented by school districts beginning] with the 2019-2020 school year.

(b) The provisions of §§113.45-113.48 of this subchapter shall be implemented by school districts beginning with the 2011-2012 school year.

§113.51. Ethnic Studies: African American Studies (One Credit).
(a) General requirements. Students shall be awarded one credit for successful completion of this course. This course is recommended for students in Grades 10-12.

(b) Introduction.
(1) In Ethnic Studies: African American Studies, an elective course, students learn about the history and cultural contributions of African Americans. This course is designed to assist students in understanding issues and events from multiple perspectives. This course develops an understanding of the historical roots of African American culture, especially as it pertains to social, economic, and political interactions within the broader context of United States history. It requires an analysis of important ideas, social and cultural values, beliefs, and traditions. Knowledge of past achievements provides citizens of the 21st century with a broader context within which to address the many issues facing the United States.

(2) To support the teaching of the essential knowledge and skills, the use of a variety of rich primary and secondary source material such as biographies, autobiographies, landmark cases of the U.S. Supreme Court, novels, speeches, letters, diaries, poetry, songs, and artwork is encouraged. Resources are available from museums, historical sites, presidential libraries, and local and state preservation societies.

(3) The eight strands of the essential knowledge and skills for social studies are intended to be integrated for instructional purposes. Skills listed in the social studies skills strand in subsection (c) of this section should be incorporated into the teaching of all essential knowledge and skills for social studies. A greater depth of understanding of complex content material can be attained when integrated social studies content from the various disciplines and critical-thinking skills are taught together.

(4) Students identify the role of the U.S. free enterprise system within the parameters of this course and understand that this system may also be referenced as capitalism or the free market system.

(5) Throughout social studies in Kindergarten-Grade 12, students build a foundation in history; geography; economics; government; citizenship; culture; science, technology, and society; and social studies skills. The content, as appropriate for the grade level or course, enables students to understand the importance of patriotism, function in a free enterprise society, and appreciate the basic democratic values of our state and nation as referenced in the Texas Education Code (TEC), §28.002(h).

(6) Students understand that a constitutional republic is a representative form of government whose representatives derive their authority from the consent of the governed, serve for an established tenure, and are sworn to uphold the constitution.

(7) State and federal laws mandate a variety of celebrations and observances, including Celebrate Freedom Week.

(A) Each social studies class shall include, during Celebrate Freedom Week as provided under the TEC, §29.907, or during another full school week as determined by the board of trustees of a school district, appropriate instruction concerning the intent, meaning, and importance of the Declaration of Independence and the U.S. Constitution, including the Bill of Rights, in their historical contexts. The study of the Declaration of Independence must include the study of the relationship of the ideas expressed in that document to subsequent American history, including the relationship of its ideas to the rich diversity of our people as a nation of immigrants, the American Revolution, the formulation of the U.S. Constitution, and the abolitionist movement, which led to the Emancipation Proclamation and the women's suffrage movement.

(B) Each school district shall require that, during Celebrate Freedom Week or other week of instruction prescribed under subparagraph (A) of this paragraph, students in Grades 3-12 study and recite the following text: "We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the Pursuit of Happiness--That to secure these Rights, Governments are instituted among Men, deriving their just Powers from the Consent of the Governed."

(8) Students identify and discuss how the actions of U.S. citizens and the local, state, and federal governments have either met or failed to meet the ideals espoused in the founding documents.

(9) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.
(1) History. The student understands the historical milestones of reference in African history prior to 1619. The student is expected to:

(A) identify the major eras, civilizations, and contributions of African history that are foundational to humanity and predate American slavery;

(B) describe and compare the various pre-colonial, indigenous, and ancestral roots of African Americans such as educational systems, social and political developments, family structures, global trade, and exchange; and

(C) analyze the effects of dehumanization through the capture, trade, and enslavement of Africans, within a regional and global context, including the Atlantic Slave Trade.

(2) History. The student understands the economic, political, and social development of slavery during the American colonial period, 1619 to 1775. The student is expected to:

(A) analyze the economic, political, and social reasons for the African diaspora, including the role of Africans and Europeans;

(B) compare and contrast the colonization of North, Central, and South America and the West Indies and neighboring islands and analyze the interactions among enslaved Africans and Native Americans;
(C) describe and explain the impact of the Middle Passage on African American culture; and

(D) explain the causes for the growth and development of slavery, primarily in the Southern colonies.

(3) History. The student understands the rationalization and ramifications for the continuation and growth of slavery and the anti-slavery movement in the United States from independence (1776) through the Emancipation Proclamation (1863). The student is expected to:

(A) analyze and evaluate the economic, social, religious, and legal rationalization used by Americans to continue and expand slavery after declaring independence from Great Britain;

(B) describe the impact of the Three-Fifths Compromise and the Fugitive Slave Act;

(C) analyze the role that slavery played in the development of nationalism and sectionalism during the early 19th century;

(D) analyze and evaluate various forms of individual and group resistance against the enslavement of African Americans;

(E) analyze the influence of significant individuals and groups prior to and during the abolitionist movement to determine their impact on ending slavery, including the work of David Walker, Elijah P. Lovejoy, John Brown, Sojourner Truth, Frederick Douglass, the American Anti-Slavery Society, and the Underground Railroad; and

(F) analyze national and international abolition efforts, including the U.S. ban on the slave trade (1808) and the abolition of slavery in Mexico (1829) and Great Britain (1833) and the significance of the Guerrero Decree in the Texas Revolution.

(4) History. The student understands African American life from the Civil War through World War I. The student is expected to:

(A) summarize the roles and experiences of African American soldiers and spies in both the North and South during the Civil War;

(B) describe and analyze the successes and failures of Reconstruction;

(C) compare the opportunities and challenges faced by African Americans from post-Reconstruction to the early 20th century and viewpoints and actions of African Americans, including Ida B. Wells, W.E.B. Du Bois, Booker T. Washington, Marcus Garvey, the National Association for the Advancement of Colored People (NAACP), Freedmen’s Towns, and the Exodusters;

(D) explain the circumstances surrounding increased violence and extremism such as the Ku Klux Klan (KKK), the Colfax Massacre, lynchings, race riots, and the Camp Logan Mutiny (The Houston Riot of 1917);

(E) analyze how the rise of Jim Crow laws affected the life experiences of African Americans in the late 19th and early 20th centuries;

(F) describe the impact of the U.S. Supreme Court decision Plessy v. Ferguson (1896);

(G) analyze the social, economic, and political actions of African Americans in response to the Jim Crow era during the early 20th century such as the Great Migration, civil rights organizations, social organizations, political organizations, and organized labor unions;

(H) examine the experiences of African American soldiers during and after World War I; and

(I) evaluate the impact of African American military service from Reconstruction through World War I, including the role of the Buffalo Soldiers.

(5) History. The student understands change and continuity in the African American cultural identity during the Great Depression, World War II, and the Civil Rights Movement. The student is expected to:

(A) compare the positive and negative effects of the Great Depression and New Deal on the social and economic status of African Americans in various geographic regions;

(B) describe the continued struggle for civil rights in America during this time in history, including the notable works of the NAACP, National Urban League, Jackie Robinson, Martin Luther King Jr., Daisy Bates and the Little Rock Nine, and local leaders;

(C) describe the interactions of the people of the diaspora relative to the struggle for civil rights;

(D) describe the impact of racism during World War II;

(E) analyze the contributions of significant African American individuals and groups during World War II, including Doris "Dorie" Miller, the Tuskegee Airmen, and the 761st Tank Battalion;

(F) analyze how the effects of World War II laid the groundwork for the Civil Rights Movement, including Harry S. Truman’s Executive Order 9981 and the contributions of A. Phillip Randolph, Mary McLeod Bethune, and Thurgood Marshall;

(G) analyze the successes and failures of the Civil Rights Movement, including methods such as sit-ins, boycotts, marches, speeches, music, and organizations; and

(H) evaluate the extent to which the Civil Rights Movement transformed American politics and society.

(6) History. The student understands the progress made and challenges faced by African Americans from the post-Civil Rights Era to contemporary times. The student is expected to:

(A) identify and explain the issues confronting African Americans in the continuing quest for equality;

(B) describe the major contributions of contemporary African Americans and how their contributions have shaped the American experience such as John H. Johnson, Muhammad Ali, Shirley Chisholm, Earl G. Graves, Barbara Jordan, Colin Powell, Condoleezza Rice, and Barack Obama; and

(C) analyze the progress and challenges for African American men and women socially, economically, and politically from 1970 to the present such as the evolving role of education in the African American community.

(7) Geography. The student understands the impact of geographic factors on major events related to African Americans over time. The student is expected to:

(A) explain the causes and effects of forced and voluntary migration on individuals, groups, and societies throughout African American history;

(B) compare and contrast the physical and human geographic factors in the North and South related to the Atlantic Slave Trade, the plantation system, the expansion of slavery, and the Industrial Revolution;

(C) explain the westward movement and the Great Migration and summarize their impact on African Americans; and
(D) analyze how environmental changes impacted African American communities such as land use, settlement patterns, and urban development.

(8) Economics. The student understands ways in which African Americans have addressed opportunities, challenges, and strategies concerning economic well-being over time. The student is expected to:

(A) describe the development of the plantation system and slave labor in the American colonies;

(B) identify the groups that participated in the transatlantic triangular trade system and explain how the system worked;

(C) analyze the effects of the Industrial Revolution and the cotton gin on the economies of the United States and the world;

(D) explain how economic policies such as sharecropping, Jim Crow economics, and redlining impacted the standard of living of African Americans;

(E) explain how unsatisfactory economic opportunities in the South and increased economic opportunities in cities of the North and West caused the Great Migration;

(F) evaluate the economic impact of the American labor movement and unionism on African Americans from the late nineteenth century to today;

(G) analyze how various geographic, cultural, social, political, and financial factors influenced the economic mobility of African Americans such as skin color, wealth, and educational background;

(H) evaluate the effectiveness of various approaches African Americans have used to solve economic issues;

(I) trace the rise and development of African American businesses and entrepreneurship from the late 19th century to today; and

(J) examine the contributions of African American and Black American Business entrepreneurs such as Black Wall Street, black inventors, and the black experience in business and the economic contributions of individuals such as Madame C. J. Walker and Fannie Lou Hamer.

(9) Government. The student understands the significant impact of political decisions on African Americans throughout history. The student is expected to:

(A) compare the effects of revolutionary ideologies such as life, liberty, and the pursuit of happiness on political perspectives of African Americans;

(B) explain the regional perspectives toward political rights of African American men and women from the early years of the republic through 1877;

(C) analyze the construction, interpretation, and implementation of the 13th, 14th, and 15th Amendments to the U.S. Constitution and the effects on African American men and women between 1877 and 1920;

(D) analyze how government policies, court actions, and legislation impacted African Americans from the 1920s through the 1950s;

(E) analyze the causes and effects of government actions and legislation addressing racial and social injustices from 1960 to the present day such as the issues of voting rights, civil rights, fair housing, education, employment, affirmative action, and health and nutrition; and

(F) analyze how the changing political environment has impacted civil rights from the late 20th century to the present.

(10) Government. The student understands the impact of political interactions on the African American struggle for human rights over time. The student is expected to:

(A) analyze examples of conflict and cooperation between African Americans and other groups in the pursuit of individual freedoms and civil rights such as the Freedom Riders and the Memphis Sanitation Workers Strike;

(B) explain how various philosophies and ideologies influenced the African American experience for social, political, and legal equality such as fair housing, equal opportunity, affirmative action, and voting rights; and

(C) identify and analyze the contributions of African American leadership roles at local, state, and national levels of government, including U.S. Supreme Court cases.

(11) Citizenship. The student understands the importance of multiple and changing points of view regarding citizenship of African Americans. The student is expected to:

(A) trace how perceptions of the rights and civic responsibilities of African Americans have changed over time, including the idea of being considered property with no rights under slavery;

(B) analyze how regional differences influenced political perspectives of African American communities;

(C) analyze the significance and associations of identity nomenclature relevant to African Americans such as Negro and Black; and

(D) analyze selected contemporary African American issues that have led to diverse points of view in public discourse, including rights and activism.

(12) Culture. The student understands the development of African American culture and society and the impact of shared identities and differing experiences. The student is expected to:

(A) analyze the impact of assimilation, stereotypes, de facto practices, and oppression on the lives of African Americans;

(B) analyze ways in which African Americans have retained cultural identity over time while adapting to and contributing to mainstream American culture; and

(C) analyze the various cultural practices that have shaped the individual and collective identity of African Americans over time to understand shared and differing experiences.

(13) Culture. The student understands the cultural traditions and contributions of African Americans from the colonial era through Reconstruction. The student is expected to:

(A) identify and describe the influence of African oral traditions, visual art, literary art, theater, music, and dance on African American culture;

(B) describe the influence of enslavement on African American culture;

(C) identify the contributions of early African American literature, including the works of Jupiter Hammon and Phillis Wheatley;
in African States.

Americans have Wilson, Amiri Banneker, Duke Ellington, Langston Hughes, Sargent Johnson, Jules Bledsoe, Paul Robeson, Augusta Savage, and James VanDerZee;

(D) explain the expanding influence of African American music through the work of performers such as the Fisk Jubilee Singers.

(14) Culture. The student understands the influence of artistic expression on the African American experience and American culture from Recontruction to the present. The student is expected to:

(A) describe the development of blues, ragtime, and jazz music, including the achievements of composers such as Scott Joplin and James Reese Europe;

(B) describe how various African American expressions of dance forms such as tap dance, step dance, hip hop, and modern dance and the contributions of African American dancers such as the Dance Theater of Harlem; Katherine Dunham, Bill "Bojangles" Robinson, Alvin Ailey, and Misty Copeland have contributed to the shared identity of various groups;

(C) explain the lasting impact of the Harlem Renaissance on American culture and society, including the achievements of individuals such as Louis Armstrong, Josephine Baker, Duke Ellington, Langston Hughes, Sargent Johnson, Jules Bledsoe, Paul Robeson, Augusta Savage, and James VanDerZee;

(D) describe the reactions to and the influence of selected works by African American authors such as The Souls of Black Folk by W.E.B. Du Bois, Native Son by Richard Wright, Their Eyes Were Watching God by Zora Neale Hurston, and Eyes on the Prize by Henry Hampton;

(E) describe storytelling, literary, filmmaking, and visual arts contributions related to self-identity made by African Americans such as Oscar Micheaux, John T. Biggers, Lorraine Hansberry, Amiri Baraka, Sidney Poitier, Maya Angelou, Faith Ringgold, August Wilson, bell hooks, Spike Lee, John Singleton, and Oprah Winfrey;

(F) describe how characteristics of African American history and culture have been reflected in various genres of art, music, film, theatre, visual arts, and dance; and

(G) analyze the impact of popular culture on African Americans during significant eras.

(15) Science, technology, and society. The student understands how African American achievements in science and technology have contributed to economic and social development in the United States. The student is expected to:

(A) identify examples of how advances made by African civilizations in areas such as astronomy, mathematics, architecture, and engineering have contributed to science and technology in the United States;

(B) identify examples of how industrialization was influenced by African Americans over time; and

(C) describe the contributions of significant African American individuals to science, philosophy, mathematics, and technology, including Benjamin Banneker, George Washington Carver, Granville Woods, Mary Jackson, Katherine Johnson, Henrietta Lacks, Dorothy Vaughan, Mae Jemison, and Neil deGrasse Tyson.

(16) Social studies skills. The student understands how historians use historiography to interpret the past and applies critical-thinking skills to organize and use information acquired from a variety of valid sources, including technology. The student is expected to:

(A) analyze primary and secondary sources such as maps, graphs, speeches, political cartoons, and artifacts to acquire information to answer historical questions;

(B) analyze information by applying absolute and relative chronology through sequencing, categorizing, identifying cause-and-effect relationships, comparing and contrasting, finding the main idea, summarizing, making generalizations, making predictions, drawing inferences, and drawing conclusions;

(C) apply the process of historical inquiry to research, interpret, and use multiple types of sources of evidence;

(D) evaluate the validity of a source based on corroboration with other sources and information about the author, including points of view, frames of reference, and historical context; and

(E) identify bias and support with historical evidence a point of view on a social studies issue or event.

(17) Social studies skills. The student communicates in written, oral, and visual forms. The student is expected to:

(A) create written, oral, and visual presentations of social studies information using effective communication skills, including proper citations and avoiding plagiarism; and

(B) use social studies terminology correctly.

(18) Social studies skills. The student uses geographic tools to collect, analyze, and interpret data. The student is expected to:

(A) create a visual representation of historical information such as thematic maps, graphs, and charts; and

(B) pose and answer questions about geographic distributions and patterns shown on maps, graphs, charts, and available databases.

(19) Social studies skills. The student uses problem-solving and decision-making skills, working independently and with others. The student is expected to use problem-solving and decision-making processes to identify a problem, gather information, list and consider options, consider advantages and disadvantages, choose and implement a solution, and evaluate the effectiveness of the solution.

§113.60 Social Studies Advanced Studies (One-Half Credit).

(a) General requirements. Students shall be awarded one-half unit of credit for successful completion of this course. Students may take this course with different course content for a maximum of two credits.

(b) Introduction. In Social Studies Advanced Studies, an elective course, students conduct in-depth research, prepare a product of professional quality, and present their findings to appropriate audiences. Students, working independently or in collaboration with a mentor, investigate a problem, issue, or concern; research the topic using a variety of technologies; and present a product of professional quality to an appropriate audience.

(c) Knowledge and skills:

(1) The student will investigate, independently or collaboratively, a problem, issue, or concern within a selected profession or discipline. The student is expected to:

(A) analyze the relationship between his or her interests and career/discipline;

(B) review literature from varied sources from the selected career or discipline;

(C) identify a problem, issue, or concern;
(D) survey and/or interview professionals to determine the appropriateness of a project; and

(E) develop a proposal that includes well-defined questions, goals and objectives, rationale, and procedures for the project.

(2) The student will demonstrate understanding of the research methods and/or technologies used in a selected profession or discipline. The student is expected to:
   (A) develop an understanding of the requirements and practices of the profession in the selected career or discipline through observation;
   (B) simulate the methods and/or technologies used in the research process particular to the selected field or discipline; and
   (C) review and revise the original proposal to reflect changes needed based upon preliminary research and practices.

(3) The student will develop products that meet standards recognized by the selected profession or discipline. The student is expected to:
   (A) collaborate with the appropriate professionals to define the product;
   (B) develop a plan for product completion;
   (C) develop assessment criteria for successful completion of the project;
   (D) establish the appropriateness of the product for the intended audience;
   (E) implement the plan for product completion; and
   (F) maintain a journal to document all phases of the implementation of the plan and reflections on learning experiences and processes.

(4) The student will demonstrate an understanding of the selected problem, issue, or concern by explaining or justifying findings to an appropriate audience for public comment or professional response. The student is expected to:
   (A) review and revise the plan to present the findings;
   (B) make arrangements for the presentation of findings to an appropriate audience;
   (C) present findings, simulating the skills used by professionals;
   (D) consider feedback received from the audience;
   (E) reflect on the study and its potential for impact on the field; and
   (F) reflect on personal learning experiences of the study.

§13.61. Economics Advanced Studies (One-Half Credit).

(a) General requirements. Students may take this course with different course content for a maximum of one credit. Students who are pursuing the Distinguished Achievement Program may take Economics Advanced Studies to earn state credit for developing, researching, and presenting their mentorship or independent study advanced measure.

(b) Introduction. In Economics Advanced Studies, an elective course, students conduct in-depth research, prepare a product of professional quality, and present their findings to appropriate audiences. Students, working independently or in collaboration with a mentor, investigate a problem, issue, or concern; research the topic using a variety of technologies; and present a product of professional quality to an appropriate audience.

(c) Knowledge and skills.

(1) The student will investigate, independently or collaboratively, a problem, issue, or concern within a selected profession or discipline. The student is expected to:
   (A) analyze the relationship between his or her interests and career/discipline;
   (B) review literature from varied sources from the selected career or discipline;
   (C) identify a problem, issue, or concern;
   (D) survey and/or interview professionals to determine the appropriateness of a project; and
   (E) develop a proposal that includes well-defined questions, goals and objectives, rationale, and procedures for the project.

(2) The student will demonstrate understanding of the research methods and/or technologies used in a selected profession or discipline. The student is expected to:
   (A) develop an understanding of the requirements and practices of the profession in the selected career or discipline through observation;
   (B) simulate the methods and/or technologies used in the research process particular to the selected field or discipline; and
   (C) review and revise the original proposal to reflect changes needed based upon preliminary research and practices.

(3) The student will develop products that meet standards recognized by the selected profession or discipline. The student is expected to:
   (A) collaborate with the appropriate professionals to define the product;
   (B) develop a plan for product completion;
   (C) develop assessment criteria for successful completion of the project;
   (D) establish the appropriateness of the product for the intended audience;
   (E) implement the plan for product completion; and
   (F) maintain a journal to document all phases of the implementation of the plan and reflections on learning experiences and processes.

(4) The student will demonstrate an understanding of the selected problem, issue, or concern by explaining or justifying findings to an appropriate audience for public comment or professional response. The student is expected to:
   (A) review and revise the plan to present the findings;
   (B) make arrangements for the presentation of findings to an appropriate audience;
   (C) present findings, simulating the skills used by professionals;
   (D) consider feedback received from the audience;
   (E) reflect on the study and its potential for impact on the field; and
   (F) reflect on personal learning experiences of the study.
The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 24, 2020.

TRD-202000805
Cristina De La Fuente-Valadez
Director, Rulemaking
Texas Education Agency

Earliest possible date of adoption: April 5, 2020
For further information, please call: (512) 475-1497

SUBCHAPTER D. OTHER SOCIAL STUDIES COURSES

19 TAC §§113.51 - 113.68, 113.71 - 113.80

STATUTORY AUTHORITY. The repeals are proposed under Texas Education Code (TEC), §7.102(c)(4), which requires the State Board of Education (SBOE) to establish curriculum and graduation requirements; TEC, §28.002(a), which identifies the subjects of the required curriculum; TEC, §28.002(c), which requires the SBOE to by rule identify the essential knowledge and skills of each subject in the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials and addressed on the state assessment instruments; and TEC, §28.025(a), which requires the SBOE to by rule determine the curriculum requirements for the foundation high school graduation program that are consistent with the required curriculum under TEC, §28.002.

CROSS REFERENCE TO STATUTE. The repeals implement Texas Education Code, §§7.102(c)(4); 28.002(a) and (c); and 28.025(a).

§113.65. International Baccalaureate (IB) Geography Higher Level (HL) (Two Credits).
§113.66. International Baccalaureate (IB) Geography Higher Level (SL) (Two Credits).
§113.67. International Baccalaureate (IB) Psychology Standard Level (SL) (Two Credits).
§113.68. International Baccalaureate (IB) Psychology Higher Level (HL) (Two Credits).
§113.70. International Baccalaureate (IB) Social and Cultural Anthropology Higher Level (HL) (Two Credits).
§113.72. International Baccalaureate (IB) World Religions Higher Level (HL) (Two Credits).
§113.73. International Baccalaureate (IB) Global Politics Standard Level (SL) (Two Credits).
§113.74. International Baccalaureate (IB) Global Politics Higher Level (HL) (Two Credits).
§113.75. Economics Advanced Studies (One-Half Credit).
§113.76. Economics Advanced Studies (One-Half Credit).
§113.77. Advanced Placement (AP) Microeconomics (One-Half Credit).
§113.78. Advanced Placement (AP) Macroeconomics (One-Half Credit).
§113.80. International Baccalaureate (IB) Economics Higher Level (HL) (Two Credits).

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 24, 2020.

TRD-202000806
Cristina De La Fuente-Valadez
Director, Rulemaking
Texas Education Agency

Earliest possible date of adoption: April 5, 2020
For further information, please call: (512) 475-1497

19 TAC §§113.101 - 113.126

STATUTORY AUTHORITY. The new sections are proposed under Texas Education Code (TEC), §7.102(c)(4), which requires the State Board of Education (SBOE) to establish curriculum and graduation requirements; TEC, §28.002(a), which identifies the subjects of the required curriculum; TEC, §28.002(c), which requires the SBOE to by rule identify the essential knowledge and skills of each subject in the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials and addressed on the state assessment instruments; and TEC, §28.025(a), which requires the SBOE to by rule determine the curriculum requirements for the foundation high school graduation program that are consistent with the required curriculum under TEC, §28.002.

CROSS REFERENCE TO STATUTE. The new sections implement Texas Education Code, §§7.102(c)(4); 28.002(a) and (c); and 28.025(a).

§113.101. Implementation of Texas Essential Knowledge and Skills for Social Studies, Other Social Studies Courses.
Implementation of the provisions of this subchapter begins with the effective date of the provision unless otherwise noted.

PROPOSED RULES    March 6, 2020    45 TexReg 1545
§113.102. Advanced Placement (AP) United States History (One Credit).

(a) General requirements. Students shall be awarded one credit for successful completion of this course. This course may be used to meet either of the course requirement for U.S. History for state graduation or elective course requirements.

(b) Content requirements. Content requirements for Advanced Placement (AP) United States History are prescribed in the College Board Publication Advanced Placement Course in United States History, published by The College Board and in §113.41 of this title (relating to United States History Studies Since 1877 (One Credit), Adopted 2018).

§113.103. Advanced Placement (AP) European History (One Credit).

(a) General requirements. Students shall be awarded one credit for successful completion of this course. This course may not be used as a substitute for World History Studies.

(b) Content requirements. Content requirements for Advanced Placement (AP) European History are prescribed in the College Board Publication Advanced Placement Course in European History, published by The College Board.

§113.104. Advanced Placement (AP) World History (One Credit).

(a) General requirements. Students shall be awarded one credit for successful completion of this course. This course may be used as a substitute for World History Studies.

(b) Content requirements. Content requirements for Advanced Placement (AP) World History are prescribed in the College Board Publication Advanced Placement Course Description in World History, published by The College Board and in §113.42 of this title (relating to World History Studies (One Credit), Adopted 2018).

§113.105. Advanced Placement (AP) Human Geography (One-Half to One Credit).

(a) General requirements. Students shall be awarded either one-half credit or one credit for successful completion of this course. When completed for one credit, this course may be used as a substitute for World Geography Studies. When completed for one-half credit, this course may be used to meet only elective course requirements.

(b) Content requirements. Content requirements for Advanced Placement (AP) Human Geography are prescribed in the College Board Publication Advanced Placement Course in Description Human Geography, published by The College Board and in §113.43 of this title (relating to World Geography Studies (One Credit), Adopted 2018) when taught as a one-credit course. Content requirements for AP Human Geography are prescribed in the College Board Publication Advanced Placement Course in Description Human Geography, published by The College Board when taught as a one-half credit course.

§113.106. Advanced Placement (AP) U.S. Government and Politics (One-Half Credit).

(a) General requirements. Students shall be awarded one-half credit for successful completion of this course. This course may be used to meet the course requirement in Government for state graduation.

(b) Content requirements. Content requirements for Advanced Placement (AP) U.S. Government and Politics are prescribed in the College Board Publication Advanced Placement Course in U.S. Government and Politics, published by The College Board and in §113.44 of this title (relating to United States Government (One-Half Credit), Adopted 2018).


(a) General requirements. Students shall be awarded one-half credit for successful completion of this course. This course may be used to meet only elective course requirements for state graduation.

(b) Content requirements. Content requirements for Advanced Placement (AP) Comparative Government and Politics are prescribed in the College Board Publication Advanced Placement Course in Comparative Government and Politics, published by The College Board.

§113.108. Advanced Placement (AP) Psychology (One-Half Credit).

(a) General requirements. Students shall be awarded one-half credit for successful completion of this course. This course may be used to meet only elective course requirements for state graduation.

(b) Content requirements. Content requirements for Advanced Placement (AP) Psychology are prescribed in the College Board Publication Advanced Placement Course in Psychology, published by The College Board.


(a) General requirements. Students shall be awarded two credits for successful completion of this course. This course may be used to meet only elective course requirements for state graduation.

(b) Content requirements. Content requirements for IB History SL are prescribed by the International Baccalaureate Organization. Subject guides may be obtained from International Baccalaureate of North America.

§113.110. International Baccalaureate (IB) History of Africa and the Middle East Higher Level (HL) (Two Credits).

(a) General requirements. Students shall be awarded two credits for successful completion of this course. This course may be used to meet only elective course requirements for state graduation.

(b) Content requirements. Content requirements for IB History of Africa and the Middle East HL are prescribed by the International Baccalaureate Organization. Subject guides may be obtained from International Baccalaureate of North America.

§113.111. International Baccalaureate (IB) History of the Americas Higher Level (HL) (Two Credits).

(a) General requirements. Students shall be awarded two credits for successful completion of this course. One credit may be used to meet the course requirement in United States history for state graduation; the other credit may be used to meet only elective course requirements for state graduation.

(b) Content requirements. Content requirements for IB History of the Americas HL are prescribed by the International Baccalaureate Organization. Subject guides may be obtained from International Baccalaureate of North America and in §113.41 of this title (relating to United States History Studies Since 1877 (One Credit), Adopted 2018).

§113.112. International Baccalaureate (IB) History of Asia and Oceania Higher Level (HL) (Two Credits).

(a) General requirements. Students shall be awarded two credits for successful completion of this course. This course may be used to meet only elective course requirements for state graduation.

(b) Content requirements. Content requirements for IB History of Asia and Oceania HL are prescribed by the International Baccalaureate Organization. Subject guides may be obtained from International Baccalaureate of North America.

§113.113. International Baccalaureate (IB) History of Europe Higher Level (HL) (Two Credits).
(a) General requirements. Students shall be awarded two credits for successful completion of this course. This course may be used to meet only elective course requirements for state graduation.

(b) Content requirements. Content requirements for IB History of Europe HL are prescribed by the International Baccalaureate Organization. Subject guides may be obtained from International Baccalaureate of North America.


(a) General requirements. Students shall be awarded two credits for successful completion of this course. This course may be used to meet required course requirements for state graduation.

(b) Content requirements. Content requirements for IB Geography SL are prescribed by the International Baccalaureate Organization. Subject guides may be obtained from International Baccalaureate of North America and in §113.43 of this title (relating to World Geography Studies (One Credit), Adopted 2018).

§113.115. International Baccalaureate (IB) Geography Higher Level (HL) (Two Credits).

(a) General requirements. Students shall be awarded two credits for successful completion of this course. One credit may be used to meet the course requirement in World Geography Studies for state graduation; the other credit may be used to meet only elective course requirements for state graduation.

(b) Content requirements. Content requirements for IB Geography HL are prescribed by the International Baccalaureate Organization. Subject guides may be obtained from International Baccalaureate of North America and in §113.43 of this title (relating to World Geography Studies (One Credit), Adopted 2018).


(a) General requirements. Students shall be awarded two credits for successful completion of this course. This course may be used to meet only elective course requirements for state graduation.

(b) Content requirements. Content requirements for IB Psychology SL are prescribed by the International Baccalaureate Organization. Subject guides may be obtained from International Baccalaureate of North America.

§113.117. International Baccalaureate (IB) Psychology Higher Level (HL) (Two Credits).

(a) General requirements. Students shall be awarded two credits for successful completion of this course. This course may be used to meet only elective course requirements for state graduation.

(b) Content requirements. Content requirements for IB Psychology HL are prescribed by the International Baccalaureate Organization. Subject guides may be obtained from International Baccalaureate of North America.


(a) General Requirements. Students shall be awarded two credits for successful completion of this course. This course may be used to meet only elective course requirements for state graduation.

(b) Content requirements. Content requirements for IB Social and Cultural Anthropology SL are prescribed by the International Baccalaureate Organization. Subject guides may be obtained from the International Baccalaureate of North America.

§113.119. International Baccalaureate (IB) Social and Cultural Anthropology Higher Level (HL) (Two Credits).

(a) General Requirements. Students shall be awarded two credits for successful completion of this course. This course may be used to meet only elective course requirements for state graduation.

(b) Content requirements. Content requirements for IB Social and Cultural Anthropology HL are prescribed by the International Baccalaureate Organization. Subject guides may be obtained from the International Baccalaureate of North America.

§113.120. International Baccalaureate (IB) World Religions Standard Level (SL) (Two Credits).

(a) General Requirements. Students shall be awarded two credits for successful completion of this course. This course may be used to meet only elective course requirements for state graduation.

(b) Content requirements. Content requirements for IB World Religions SL are prescribed by the International Baccalaureate Organization. Subject guides may be obtained from the International Baccalaureate of North America.

§113.121. International Baccalaureate (IB) Global Politics Standard Level (SL) (Two Credits).

(a) General Requirements. Students shall be awarded two credits for successful completion of this course. This course may be used to meet only elective course requirements for state graduation.

(b) Content requirements. Content requirements for IB Global Politics SL are prescribed by the International Baccalaureate Organization. Subject guides may be obtained from the International Baccalaureate of North America.

§113.122. International Baccalaureate (IB) Global Politics Higher Level (HL) (Two Credits).

(a) General Requirements. Students shall be awarded two credits for successful completion of this course. This course may be used to meet only elective course requirements for state graduation.

(b) Content requirements. Content requirements for IB Global Politics HL are prescribed by the International Baccalaureate Organization. Subject guides may be obtained from the International Baccalaureate of North America.

§113.123. Advanced Placement (AP) Microeconomics (One-Half Credit).

(a) General requirements. This course may be used to meet required course requirements for state graduation. If Microeconomics is used to meet the required course requirement for state graduation, Macroeconomics may be used as a state-approved elective.

(b) Content requirements. Content requirements for Advanced Placement (AP) Microeconomics are prescribed in the College Board Publication Advanced Placement Course in Microeconomics published by The College Board.

§113.124. Advanced Placement (AP) Macroeconomics (One-Half Credit).

(a) General requirements. This course may be used to meet required course requirements for state graduation. If Macroeconomics is used to meet the required course requirement for state graduation, Microeconomics may be used as a state-approved elective.

(b) Content requirements. Content requirements for Advanced Placement (AP) Macroeconomics are prescribed in the College Board Publication Advanced Placement Course in Macroeconomics published by The College Board.


(a) General requirements. One-half credit may be used to meet the course requirement in Economics for state graduation and one and
one-half credits may be used to meet only elective course requirements for state graduation.

(b) Content requirements. Content requirements for IB Economics SL are prescribed by the International Baccalaureate Organization. Subject guides may be obtained from International Baccalaureate of North America.

§113.126. International Baccalaureate (IB) Economics Higher Level (HL) (Two Credits).

(a) General requirements. One-half credit may be used to meet the course requirement in Economics for state graduation and one and one-half credits may be used to meet only elective course requirements for state graduation.

(b) Content requirements. Content requirements for IB Economics HL are prescribed by the International Baccalaureate Organization. Subject guides may be obtained from International Baccalaureate of North America.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency’s legal authority to adopt.

Filed with the Office of the Secretary of State on February 24, 2020.

TRD-202000807
Cristina De La Fuente-Valadez
Director, Rulemaking
Texas Education Agency
Earliest possible date of adoption: April 5, 2020
For further information, please call: (512) 475-1497

CHAPTER 126. TEXAS ESSENTIAL KNOWLEDGE AND SKILLS FOR TECHNOLOGY APPLICATIONS

The State Board of Education (SBOE) proposes the repeal of §§126.31-126.52 and 126.61-126.67, concerning Texas Essential Knowledge and Skills (TEKS) for technology applications. The proposed repeals would update the TEKS to align with recent legislation requiring the board to consolidate high school technology applications TEKS into career and technical education (CTE) TEKS and eliminate TEKS for duplicative courses.

BACKGROUND INFORMATION AND JUSTIFICATION: The 86th Texas Legislature, 2019, passed House Bill 963, which required the SBOE, not later than March 1, 2020, to conduct a review of the TEKS for CTE and technology applications courses for Grades 9-12 and amend the board’s rules to consolidate courses and eliminate duplicative courses. The SBOE is only required to implement this provision if the legislature appropriated money specifically for that purpose. If the legislature did not appropriate money specifically for that purpose, the SBOE may, but is not required to, implement a requirement using other appropriations available for that purpose. The legislature did not appropriate money specifically for the purpose of implementing this requirement.

All but two of the courses in Chapter 126, Subchapters C and D, would be repealed and proposed as new courses in 19 TAC Chapter 130. Section 126.40 and §126.45, relating to robotics programming and digital video and audio design, are duplicative of other courses in Chapter 130 and would not be re-proposed as new courses in Chapter 130.

The SBOE approved the proposed repeals for first reading and filing authorization at its January 31, 2020, meeting.

FISCAL IMPACT: Monica Martinez, associate commissioner for standards and support services, has determined that for the first five-year period the proposal is in effect there are no additional costs to state or local government required to comply with the proposal.

LOCAL EMPLOYMENT IMPACT: The proposal has no effect on local economy; therefore, no local employment impact statement is required under Texas Government Code, §2001.022.

SMALL BUSINESS, MICROBUSINESS, AND RURAL COMMUNITY IMPACT: The proposal has no direct adverse economic impact for small businesses, microbusinesses, or rural communities; therefore, no regulatory flexibility analysis specified in Texas Government Code, §2006.002, is required.

COST INCREASE TO REGULATED PERSONS: The proposal does not impose a cost on regulated persons, another state agency, a special district, or a local government and, therefore, is not subject to Texas Government Code, §2001.0045.

TAKINGS IMPACT ASSESSMENT: The proposal does not impose a burden on private real property and, therefore, does not constitute a taking under Texas Government Code, §2007.043.

GOVERNMENT GROWTH IMPACT: Texas Education Agency (TEA) staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking would repeal existing regulations in order to consolidate high school technology applications TEKS into the CTE TEKS and eliminate TEKS for duplicative courses.

The proposed rulemaking would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not create a new regulation; would not expand or limit an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state’s economy.

PUBLIC BENEFIT AND COST TO PERSONS: Ms. Martinez has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposal would be consolidating high school technology applications TEKS into the CTE TEKS and eliminating TEKS for duplicative courses. There is no anticipated economic cost to persons who are required to comply with the proposal.

DATA AND REPORTING IMPACT: The proposal would have no new data and reporting impact.

PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS: TEA has determined that the proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

PUBLIC COMMENTS: The public comment period on the proposal begins March 6, 2020, and ends April 10, 2020. A form for submitting public comments is available on the TEA website at https://tea.texas.gov/About_TEA/Laws_and_Rules/SBOE_Rules_(TAC)/Proposed_StateBoard_of_Education_Rules/. Co-
§126.34. Comments

La

SUBCHAPTER 19

State

§126.35. §126.33. §126.39. §126.38. 28.025(a). Year and requires the foundation high school graduation program that are consistent with the required curriculum under the TEC, §28.002.

CROSS REFERENCE TO STATUTE. The repeals implement Texas Education Code, §§7.102(c)(4); 28.002(a) and (c); and 28.025(a).

§126.31. Implementation of Texas Essential Knowledge and Skills for Technology Applications, High School, Beginning with School Year 2012-2013.

§126.32. Fundamentals of Computer Science (One-Half to One Credit), Beginning with School Year 2012-2013.

§126.33. Computer Science I (One-Half to One Credit), Beginning with School Year 2012-2013.

§126.34. Computer Science II (One Credit), Beginning with School Year 2012-2013.

§126.35. Computer Science III (One Credit), Beginning with School Year 2012-2013.

§126.36. Digital Forensics (One Credit), Beginning with School Year 2019-2020.

§126.37. Discrete Mathematics for Computer Science (One-Half to One Credit), Beginning with School Year 2012-2013.

§126.38. Game Programming and Design (One-Half to One Credit), Beginning with School Year 2012-2013.

§126.39. Mobile Application Development (One-Half to One Credit), Beginning with School Year 2012-2013.

§126.40. Robotics Programming and Design (One-Half to One Credit), Beginning with School Year 2012-2013.

§126.41. Digital Design and Media Production (One Credit), Beginning with School Year 2012-2013.

§126.42. Digital Art and Animation (One Credit), Beginning with School Year 2012-2013.

§126.43. 3-D Modeling and Animation (One Credit), Beginning with School Year 2012-2013.

§126.44. Digital Communications in the 21st Century (One Credit), Beginning with School Year 2012-2013.

§126.45. Digital Video and Audio Design (One Credit), Beginning with School Year 2012-2013.

§126.46. Web Communications (One-Half Credit), Beginning with School Year 2012-2013.

§126.47. Web Design (One Credit), Beginning with School Year 2012-2013.

§126.48. Web Game Development (One Credit), Beginning with School Year 2012-2013.

§126.49. Independent Study in Technology Applications (One-Half to One Credit), Beginning with School Year 2012-2013.

§126.50. Independent Study in Evolving/Emerging Technologies (One-Half to One Credit), Beginning with School Year 2012-2013.

§126.51. Foundations of Cybersecurity (One Credit).

§126.52. Cybersecurity Capstone (One Credit).

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 24, 2020.

TRD-202000813
Cristina De La Fuente-Valadez
Director, Rulemaking
Texas Education Agency
Earliest possible date of adoption: April 5, 2020
For further information, please call: (512) 475-1497

SUBCHAPTER D. OTHER TECHNOLOGY APPLICATIONS COURSES

19 TAC §§126.61 - 126.67

STATUTORY AUTHORITY. The repeals are proposed under Texas Education Code (TEC), §7.102(c)(4), which requires the State Board of Education (SBOE) to establish curriculum and graduation requirements; TEC, §28.002(a), which identifies the subjects of the required curriculum; TEC, §28.002(c), which requires the SBOE to by rule identify the essential knowledge and skills of each subject in the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials and addressed on the state assessment instruments; and TEC, §28.025(a), which requires the SBOE to by rule determine the curriculum requirements for the foundation high school graduation program that are consistent with the required curriculum under the TEC, §28.002.

CROSS REFERENCE TO STATUTE. The repeals implement Texas Education Code, §§7.102(c)(4); 28.002(a) and (c); and 28.025(a).

§126.61. Implementation of Texas Essential Knowledge and Skills for Technology Applications, Other Technology Applications Courses, Beginning with School Year 2012-2013.

§126.62. Advanced Placement (AP) Computer Science A (Two Credits), Beginning with School Year 2012-2013.

§126.63. International Baccalaureate (IB) Computer Science Standard Level (Two Credits), Beginning with School Year 2012-2013.

§126.64. International Baccalaureate (IB) Computer Science Higher Level (Two Credits), Beginning with School Year 2012-2013.


§126.66. International Baccalaureate (IB) Information Technology in a Global Society Standard Level (Two Credits).

§126.67. International Baccalaureate (IB) Information Technology in a Global Society Higher Level (Two Credits).
CHAPTER 128. TEXAS ESSENTIAL KNOWLEDGE AND SKILLS FOR SPANISH LANGUAGE ARTS AND READING AND ENGLISH AS A SECOND LANGUAGE

SUBCHAPTER C. HIGH SCHOOL

19 TAC §§128.30 - 128.32

The State Board of Education (SBOE) proposes the repeal of §§128.30-128.32, concerning Texas Essential Knowledge and Skills (TEKS) for Spanish language arts and reading and English as a second language. The proposed repeals would remove the TEKS adopted to be effective in 2009 for high school Spanish language arts and reading and English as a second language and related implementation language that will be superseded by new 19 TAC §§128.33-128.35 beginning with the 2020-2021 school year.

BACKGROUND INFORMATION AND JUSTIFICATION: In 2017, the SBOE adopted revisions to the Spanish language arts and reading and English as a second language TEKS. The revised TEKS for high school are scheduled to be implemented beginning with the 2020-2021 school year.

With the implementation of the revised Spanish language arts and reading TEKS for high school scheduled for the 2020-2021 school year, the current TEKS in 19 TAC §§128.30-128.32 are no longer needed and may now be repealed.

The SBOE approved the proposed repeals for first reading and filing authorization at its January 31, 2020 meeting.

FISCAL IMPACT: Monica Martinez, associate commissioner for standards and support services, has determined that for the first five-year period the proposal is in effect there are no additional costs to state or local government required to comply with the proposal.

LOCAL EMPLOYMENT IMPACT: The proposal has no effect on local economy; therefore, no local employment impact statement is required under Texas Government Code, §2001.022.

SMALL BUSINESS, MICROBUSINESS, AND RURAL COMMUNITY IMPACT: The proposal has no direct adverse economic impact for small businesses, microbusinesses, or rural communities; therefore, no regulatory flexibility analysis specified in Texas Government Code, §2006.002, is required.

COST INCREASE TO REGULATED PERSONS: The proposal does not impose a cost on regulated persons, another state agency, a special district, or a local government and, therefore, is not subject to Texas Government Code, §2001.0045.

TAKINGS IMPACT ASSESSMENT: The proposal does not impose a burden on private real property and, therefore, does not constitute a taking under Texas Government Code, §2007.043.

GOVERNMENT GROWTH IMPACT: Texas Education Agency (TEA) staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking would repeal existing regulations by removing rules that will be superseded beginning with the 2020-2021 school year.

The proposed rulemaking would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not create a new regulation; would not expand or limit an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state’s economy.

PUBLIC BENEFIT AND COST TO PERSONS: Ms. Martinez has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposal would be the removal of language that will be superseded by new rules beginning with the 2020-2021 school year to avoid confusion. There is no anticipated economic cost to persons who are required to comply with the proposal.

DATA AND REPORTING IMPACT: The proposal would have no data and reporting impact.

PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS: TEA has determined that the proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

PUBLIC COMMENTS: The public comment period on the proposal begins March 6, 2020, and ends April 10, 2020. A form for submitting public comments is available on the TEA website at https://tea.texas.gov/About_TEA/Laws_and_Rules/SBOE_Rules/Proposed_State_Board_of_Education_Rules/. Comments on the proposal may also be submitted to Cristina De La Fuente-Valadez, Rulemaking, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701. The SBOE will take registered oral and written comments on the proposal at the appropriate committee meeting in April 2020 in accordance with the SBOE board operating policies and procedures. A request for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the commissioner of education no more than 14 calendar days after notice of the proposal has been published in the Texas Register on March 6, 2020.

STATUTORY AUTHORITY. The repeals are proposed under Texas Education Code (TEC), §7.102(c)(4), which requires the State Board of Education (SBOE) to establish curriculum and graduation requirements; TEC, §28.002(a), which identifies the subjects of the required curriculum; TEC, §28.002(c), which requires the SBOE to by rule identify the essential knowledge and skills of each subject in the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials and addressed on the state assessment instruments; and TEC, §28.025(a), which requires the SBOE to by rule determine the curriculum requirements.
for the foundation high school graduation program that are consistent with the required curriculum under the TEC, §28.002.

CROSS REFERENCE TO STATUTE. The repeals implement Texas Education Code, §§7.102(c)(4); 28.002(a) and (c); and 28.025(a).


§128.31. English I for Speakers of Other Languages (One Credit), Beginning with School Year 2009-2010.

§128.32. English II for Speakers of Other Languages (One Credit), Beginning with School Year 2009-2010.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 24, 2020.

TRD-202000808
Cristina De La Fuente-Valadez
Director, Rulemaking
Texas Education Agency
Earliest possible date of adoption: April 5, 2020
For further information, please call: (512) 475-1497

CHAPTER 130. TEXAS ESSENTIAL KNOWLEDGE AND SKILLS FOR CAREER AND TECHNICAL EDUCATION

The State Board of Education (SBOE) proposes the repeal of §§130.13, 130.14, and 130.308-130.310 and new §§130.123-130.127, 130.315-130.318, 130.420-130.435, and 130.485-130.491, concerning Texas Essential Knowledge and Skills (TEKS) for career and technical education (CTE). The proposed repeals and new sections would update the TEKS to align with recent legislation requiring the board to consolidate high school technology applications TEKS into CTE TEKS and eliminate TEKS for duplicative courses. The proposed new sections would also update the TEKS for CTE to add a new career cluster in energy to align with revised programs of study.

BACKGROUND INFORMATION AND JUSTIFICATION: The 86th Texas Legislature, 2019, passed House Bill 963, which required the SBOE, not later than March 1, 2020, to conduct a review of the TEKS for CTE and technology applications courses for Grades 9-12 and amend the board's rules to consolidate courses and eliminate duplicative courses. The SBOE is only required to implement this provision if the legislature appropriated money specifically for that purpose. If the legislature did not appropriate money specifically for that purpose, the SBOE may, but is not required to, implement a requirement using other appropriations available for that purpose. The legislature did not appropriate money specifically for the purpose of implementing this requirement.

Texas is redesigning state-level programs of study to include coherent and rigorous content with challenging academic standards and relevant career and technical content. Programs of study will be aligned with state and regional labor market information, including high-wage, high-skill, and in-demand occupations. As a part of the program of study revision process, Texas conducted a statewide labor market analysis that discovered several instances where occupations and postsecondary training overlap. As part of this process, it was recommended that a new career cluster in energy be added to address programs of study in the energy industry.

In Chapter 130, repealed courses from 19 TAC Chapter 126 would be proposed as new courses in Subchapters C, K, and O. Subchapter K would also include the repeal of duplicative courses in web technologies and computer programming. New Subchapter Q would include two courses currently contained in Subchapter A as well as five new courses.

The SBOE approved the proposed rule actions for first reading and filing authorization at its January 31, 2020 meeting.

FISCAL IMPACT: Monica Martinez, associate commissioner for standards and support services, has determined that for the first five-year period the proposal is in effect there are no additional costs to state or local government required to comply with the proposal.

LOCAL EMPLOYMENT IMPACT: The proposal has no effect on local economy; therefore, no local employment impact statement is required under Texas Government Code, §2001.022.

SMALL BUSINESS, MICROBUSINESS, AND RURAL COMMUNITY IMPACT: The proposal has no direct adverse economic impact for small businesses, microbusinesses, or rural communities; therefore, no regulatory flexibility analysis specified in Texas Government Code, §2006.002, is required.

COST INCREASE TO REGULATED PERSONS: The proposal does not impose a cost on regulated persons, another state agency, a special district, or a local government and, therefore, is not subject to Texas Government Code, §2001.0045.

TAKINGS IMPACT ASSESSMENT: The proposal does not impose a burden on private real property and, therefore, does not constitute a taking under Texas Government Code, §2007.043.

GOVERNMENT GROWTH IMPACT: Texas Education Agency (TEA) staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking would create new regulations and repeal existing regulations. The proposed revisions would consolidate high school technology applications TEKS into the CTE TEKS and eliminate TEKS for duplicative courses. The proposed revisions would also update the TEKS for CTE to add a new career cluster in energy to align with revised programs of study.

The proposed rulemaking would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not expand or limit an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

PUBLIC BENEFIT AND COST TO PERSONS: Ms. Martinez has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforing the proposal would be consolidating high school technology applications TEKS into the CTE TEKS and eliminating TEKS for duplicative courses. There is no anticipated economic cost to persons who are required to comply with the proposal.
DATA AND REPORTING IMPACT: The proposal would have no new data and reporting impact.

PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS: TEA has determined that the proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

PUBLIC COMMENTS: The public comment period on the proposal begins March 6, 2020, and ends April 10, 2020. A form for submitting public comments is available on the TEA website at https://tea.texas.gov/About_TEA/Laws_and_Rules/SBOE_Rules_(TAC)/Proposed_State.Board.of.Education.Rules/. Comments on the proposal may also be submitted to Cristina De La Fuente-Valadez, Rulemaking, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701. The SBOE will take registered oral and written comments on the proposal at the appropriate committee meeting in April 2020 in accordance with the SBOE board operating policies and procedures. A request for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 14 calendar days after notice of the proposal has been published in the Texas Register on March 6, 2020.

SUBCHAPTER A. AGRICULTURE, FOOD, AND NATURAL RESOURCES
19 TAC §§130.13, 130.14

STATUTORY AUTHORITY. The repeals are proposed under Texas Education Code (TEC), §7.102(c)(4), which requires the State Board of Education (SBOE) to establish curriculum and graduation requirements; TEC, §28.002(a), which identifies the subjects of the required curriculum; TEC, §28.002(c), which requires the SBOE to by rule identify the essential knowledge and skills of each subject in the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials and addressed on the state assessment instruments; and TEC, §28.025(a), which requires the SBOE to by rule determine the curriculum requirements for the foundation high school graduation program that are consistent with the required curriculum under the TEC, §28.002.

CROSS REFERENCE TO STATUTE. The repeals implement Texas Education Code, §§7.102(c)(4); 28.002(a) and (c); and 28.025(a).

§130.13. Oil and Gas Production I (One Credit), Adopted 2015.

§130.14. Oil and Gas Production II (One Credit), Adopted 2015.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency’s legal authority to adopt.

Filed with the Office of the Secretary of State on February 24, 2020.

TRD-202000816
Cristina De La Fuente-Valadez
Director, Rulemaking
Texas Education Agency
Earliest possible date of adoption: April 5, 2020
For further information, please call: (512) 475-1497

SUBCHAPTER C. ARTS, AUDIO/VIDEO TECHNOLOGY, AND COMMUNICATIONS
19 TAC §§130.123 - 130.127

STATUTORY AUTHORITY. The new sections are proposed under Texas Education Code (TEC), §7.102(c)(4), which requires the State Board of Education (SBOE) to establish curriculum and graduation requirements; TEC, §28.002(a), which identifies the subjects of the required curriculum; TEC, §28.002(c), which requires the SBOE to by rule identify the essential knowledge and skills of each subject in the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials and addressed on the state assessment instruments; and TEC, §28.025(a), which requires the SBOE to by rule determine the curriculum requirements for the foundation high school graduation program that are consistent with the required curriculum under the TEC, §28.002.

CROSS REFERENCE TO STATUTE. The new sections implement Texas Education Code, §§7.102(c)(4); 28.002(a) and (c); and 28.025(a).

§130.123. Digital Design and Media Production (One Credit).

(a) General requirements. Students shall be awarded one credit for successful completion of this course. This course is recommended for students in Grades 9-12.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Arts, Audio/Video Technology, and Communications Career Cluster focuses on careers in designing, producing, exhibiting, performing, writing, and publishing multimedia content including visual and performing arts and design, journalism, and entertainment services.

(3) Digital Design and Media Production will allow students to demonstrate creative thinking, develop innovative strategies, and use communication tools in order to work effectively with others as well as independently. Students will gather information electronically, which will allow for problem solving and making informed decisions regarding media projects. Students will learn digital citizenship by researching current laws and regulations and by practicing integrity and respect. Students will demonstrate a thorough understanding of digital design principles that is transferable to other disciplines. The six strands include creativity and innovation; communication and collaboration; research and information fluency; critical thinking; problem solving, and decision making; digital citizenship; and technology operations and concepts.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word “including” reference content that must be mastered, while those containing the phrase “such as” are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) Creativity and innovation. The student employs a creative design process to create original projects as they relate to purposes and audiences. The student is expected to:
(A) create designs for defined projects such as graphics, logos, and page layouts;

(B) apply design elements and typography standards;

and

(C) use visual composition principles.

(2) Communication and collaboration. The student understands professional digital media communications strategies. The student is expected to:

(A) adapt the language and design of a project for audience, purpose, situation, and intent;

(B) organize oral, written, and graphic information into formal and informal publications;

(C) interpret and communicate information to multiple audiences; and

(D) collaborate to create original projects, including seeking and responding to advice from others as peers or experts in the creation and evaluation process.

(3) Research and information fluency. The student uses a variety of strategies to plan, obtain, evaluate, and use valid information. The student is expected to:

(A) obtain print and digital information such as graphics, audio, and video from a variety of resources while citing the sources;

(B) evaluate information for accuracy and validity; and

(C) present accurate information using techniques appropriate for the intended audience.

(4) Critical thinking, problem solving, and decision making. The student implements problem-solving methods using critical-thinking skills to plan, implement, manage, and evaluate projects; solve problems; and make informed decisions using appropriate digital tools and resources. The student is expected to:

(A) employ critical-thinking and interpersonal skills to solve problems and make decisions through planning and gathering, interpreting, and evaluating data;

(B) identify and organize the tasks for completion of a project using the most appropriate digital tools;

(C) distinguish design requirements as they relate to the purposes and audiences of a project and apply appropriate design elements;

(D) seek and respond to input from others, including peers, teachers, and outside collaborators;

(E) evaluate a process and project both independently and collaboratively and make suggested revisions; and

(F) transfer critical-thinking, problem-solving, and decision-making processes when using new technologies.

(5) Digital citizenship. The student complies with standard practices and behaviors and upholds legal and ethical responsibilities. The student is expected to:

(A) examine copyright and fair use guidelines with regard to print and digital media;

(B) model ethical and legal acquisition and use of digital resources such as licensing and established methods of citing sources;

(C) demonstrate proper digital etiquette, personal security guidelines, use of network resources, and application of the district's acceptable use policy for technology; and

(D) identify and demonstrate positive personal qualities such as flexibility, open-mindedness, initiative, listening attentively to speakers, willingness to learn new knowledge and skills, and pride in quality work.

(6) Technology operations and concepts. The student uses technology concepts, systems, and operations as appropriate for a project. The student is expected to:

(A) define the purpose of a product and identify the specified audience;

(B) demonstrate appropriate project management to:

(i) create a plan for a media project such as a storyboard, stage development, and identification of equipment and resources; and

(ii) evaluate design, content delivery, purpose, and audience throughout a project's timeline and make suggested revisions until completion of the project;

(C) use hardware, software, and information appropriate to a project and its audience to:

(i) acquire readily available digital information, including text, audio, video, and graphics, citing the sources;

(ii) create digital content through the use of various devices such as video camera, digital camera, scanner, microphone, interactive whiteboard, video capture, and musical instrument;

(iii) collaborate via online tools such as blogs, discussion boards, email, and online learning communities;

(iv) make decisions regarding the selection and use of software, taking into consideration operating system platform, quality, appropriateness, effectiveness, and efficiency;

(v) delineate and make necessary adjustments regarding compatibility issues, including digital file formats and cross-platform connectivity; and

(vi) demonstrate the ability to import and export elements from one program to another;

(D) use digital typography standards such as:

(i) one space after punctuation, the use of em- and en-dashes, and smart quotation marks;

(ii) categories of type, font, size, style, and alignment appropriate for the task;

(iii) type techniques such as drop cap, decorative letters, or embedded text frames as graphic elements;

(iv) leading and kerning, automatic text flow into linked columns, widows and orphans, and text wrap; and

(v) type measurement for inches and picas;

(E) apply design and layout principles and techniques to:

(i) incorporate the principles of design, including balance, contrast, dominant element, white space, consistency, repetition, alignment, and proximity;

(ii) apply the elements of design, including text, graphics, and white space:
(iii) apply color principles appropriate to the product in order to communicate the mood for the specific audience;

(iv) identify the parts of pages, including inside margin, outside margin, and gutter;

(v) create a master template, including page specifications and other repetitive elements; and

(vi) use style sheets, including a variety of type specifications such as face type, style, size, alignment, indents, and tabs;

(F) demonstrate appropriate use of digital photography and editing to:

(i) use digital photography equipment to capture still-shot images that incorporate various photo composition techniques, including lighting, perspective, candid versus posed, rule of thirds, and filling the frame;

(ii) transfer digital images from equipment to the computer; and

(iii) demonstrate image enhancement techniques such as feathering, layering, color enhancement, and image selection using appropriate digital manipulation software;

(G) demonstrate appropriate use of videography equipment and techniques to:

(i) use digital photography equipment to capture video that incorporates video principles such as lighting, zooming, panning, and stabilization;

(ii) transfer video from equipment to the computer;

(iii) demonstrate videographic enhancement and editing techniques such as transitions, zooming, content editing, and synchronizing audio and video using appropriate digital manipulation software; and

(iv) export video in digital formats to be used in various delivery systems such as podcasting, downloadable media, embedding, and streaming; and

(H) deploy digital media into print, web, and video products to:

(i) produce digital files in various formats such as portable document format (PDF), portable network graphics (PNG), and HyperText Markup Language (HTML);

(ii) publish integrated digital content such as video, audio, text, graphics, and motion graphics following appropriate digital etiquette standards;

(iii) publish and share projects using online methods such as social media and collaborative sites;

(iv) incorporate various digital media into a printed document such as a newsletter, poster, or report;

(v) use printing options such as tiling, color separations, and collation; and

(vi) collect and organize student-created products to build an individual portfolio.

§130.124. Digital Art and Animation (One Credit).

(a) General requirements. Students shall be awarded one credit for successful completion of this course. Recommended prerequisite: Art, Level I. This course is recommended for students in Grades 9-12. This course satisfies the high school fine arts graduation requirement.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Arts, Audio/Video Technology, and Communications Career Cluster focuses on careers in designing, producing, exhibiting, performing, writing, and publishing multimedia content including visual and performing arts and design, journalism, and entertainment services.

(3) Digital Art and Animation consists of computer images and animations created with digital imaging software. Digital Art and Animation has applications in many careers, including graphic design, advertising, web design, animation, corporate communications, illustration, character development, script writing, storyboarding, directing, producing, inking, project management, editing, and the magazine, television, film, and game industries. Students in this course will produce various real-world projects and animations. The six strands include creativity and innovation; communication and collaboration; research and information fluency; critical thinking; problem solving; and decision making; digital citizenship; and technology operations and concepts.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word “including” reference content that must be mastered, while those containing the phrase “such as” are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) Creativity and innovation. The student demonstrates creative thinking, constructs knowledge, and develops innovative products and processes using technology. The student is expected to:

(A) evaluate, edit, and create scripts for animations;

(B) identify and apply color theories, including harmony rules, tints, shades, gradients, color mixing, new color creation, and the visual impacts of specific color combinations using a digital format;

(C) compare, contrast, and integrate the basic sound editing principles, including mixing and manipulating wave forms, audio tracks, and effects;

(D) compare and contrast the rules of composition such as the rule of thirds or the golden section/rectangle with respect to harmony and balance;

(E) evaluate the fundamental concepts of a digital art and design such as composition, perspective, angles, lighting, repetition, proximity, white space, balance, and contrast;

(F) analyze digital art designs to interpret the point of interest, the prominence of the subject, and visual parallels between the structures of natural and human-made environments;

(G) distinguish among typefaces while recognizing and resolving conflicts that occur through the use of typography as a design element;

(H) use perspective, including backgrounds, light, shades and shadows, hue and saturation, and scale, to capture a focal point and create depth;
(1) use the basic principles of design such as proportion, balance, variety, emphasis, harmony, symmetry, and unity in type, color, size, line thickness, shape, and space;

(2) edit files using appropriate digital editing tools and established design principles such as consistency, repetition, alignment, proximity, white space, image file size, color use, and font size, type, and style; and

(K) identify pictorial qualities in a design such as shape and form, space and depth, or pattern and texture to create visual unity and desired effects in designs.

(2) Communication and collaboration. The student uses digital media and environments to communicate and work collaboratively, including at a distance, to support individual learning and contribute to the learning experience of others. The student is expected to:

(A) use vocabulary as it relates to digital art, audio, and animation;

(B) demonstrate the use of technology to participate in self-directed and collaborative activities within the global community;

(C) participate in electronic communities;

(D) create technology specifications for tasks and rubrics for the evaluation of products:

(E) design and implement procedures to track trends, set timelines, and evaluate products;

(F) collaborate with peers in delineating technological tasks;

(G) publish and save information in a variety of ways, including print or digital formats;

(H) analyze and evaluate projects for design, content delivery, purpose, and audience; and

(I) critique original digital artwork, portfolios, and products with peers.

(3) Research and information fluency. The student applies digital tools to gather, evaluate, and use information. The student is expected to:

(A) distinguish between and correctly apply process color (RGB and CYMK), spot color, and black or white;

(B) research the history of digital art and animation;

(C) research career choices in digital art and animation;

(D) use the Internet to retrieve information in an electronic format;

(E) demonstrate the appropriate use of digital imaging, video integration, and sound retrieved from an electronic format;

(F) import sounds from a variety of sources; and

(G) create planning designs such as rough sketches, storyboards, and brainstorming materials.

(4) Critical thinking, problem solving, and decision making. The student uses critical-thinking skills to plan and conduct research, manage projects, solve problems, and make informed decisions using appropriate digital tools and resources. The student is expected to:

(A) distinguish between and use the components of animation software programs such as cast, score, stage, and the animation manipulation interface;

(B) distinguish between and use different animation techniques such as path and cell animation, onion skinning, and tweening;

(C) create three-dimensional effects by layering images such as foreground, middle distance, and background images;

(D) apply a variety of color schemes such as monochromatic, analogues, complementary, primary/secondary triads, cool/warm colors, and split complements to digital designs;

(E) use the basic concepts of color and design theory such as working in a bitmapped and vector mode to create backgrounds, characters, and other cast members as needed for the animation;

(F) use the appropriate scripting language or program code to create an animation;

(G) use a variety of lighting techniques such as shadows and shading to create effects; and

(H) define the design attributes and requirements of products created for a variety of purposes such as posters, billboards, logos, corporate identity, advertisements, book jackets, brochures, and magazines.

(5) Digital citizenship. The student understands human, cultural, and societal issues related to technology and practices legal and ethical behavior. The student is expected to:

(A) discuss copyright laws/issues and use of digital information such as attributing ideas and citing sources using established methods;

(B) define plagiarism and model respect of intellectual property;

(C) demonstrate proper digital etiquette and knowledge of acceptable use policies when using technology; and

(D) evaluate the validity and reliability of sources.

(6) Technology operations and concepts. The student demonstrates a sound understanding of technology concepts, systems, and operations. The student is expected to:

(A) demonstrate knowledge and appropriate use of operating systems, software applications, and communication and networking components;

(B) make decisions regarding the selection and use of software and Internet resources;

(C) make necessary adjustments regarding compatibility issues with digital file formats, importing and exporting data, and cross-platform compatibility; and

(D) read, use, and develop technical documentation.

§130.125. 3-D Modeling and Animation (One Credit).

(a) General requirements. Students shall be awarded one credit for successful completion of this course. Recommended prerequisite: Art, Level I. This course is recommended for students in Grades 9-12. This course satisfies the high school fine arts graduation requirement.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.
(2) The Arts, Audio/Video Technology, and Communications Career Cluster focuses on careers in designing, producing, exhibiting, performing, writing, and publishing multimedia content including visual and performing arts and design, journalism, and entertainment services.

(3) 3-D Modeling and Animation consists of computer images created in a virtual three-dimensional (3-D) environment. 3-D Modeling and Animation has applications in many careers, including criminal justice, crime scene, and legal applications; construction and architecture; engineering and design; and the movie and game industries. Students in this course will produce various 3-D models of real-world objects. The six strands include creativity and innovation; communication and collaboration; research and information fluency; critical thinking; problem solving, and decision making; digital citizenship; and technology operations and concepts.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word “including” reference content that must be mastered, while those containing the phrase “such as” are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) Creativity and innovation. The student demonstrates creative thinking, constructs knowledge, and develops innovative products and processes using technology. The student is expected to:

(A) evaluate, edit, and create scripts for animations;

(B) identify and apply color theories, including harmony rules, tints, shades, gradients, color mixing, new color creation, and the visual impacts of specific color combinations using a digital format;

(C) apply texture, transparency, skinning, and contour along a 3-D object surface;

(D) compare, contrast, and integrate the basic sound editing principles, including mixing and manipulating wave forms, audio tracks, and effects;

(E) compare and contrast the rules of composition such as the rule of thirds or the golden section/rectangle with respect to harmony and balance;

(F) evaluate the fundamental concepts of 3-D modeling and design such as composition, perspective, angles, lighting, repetition, proximity, white space, balance, and contrast;

(G) analyze 3-D model objects to interpret the point of interest, the prominence of the subject, and visual parallels between the structures of natural and human-made environments;

(H) distinguish among typefaces while recognizing and resolving conflicts that occur through the use of typography as a design element;

(I) use perspective, including spot and directional light, backgrounds, ambiance, shades and shadows, and hue and saturation;

(J) use the basic principles of design such as proportion, balance, variety, emphasis, harmony, symmetry, and unity in type, color, size, line thickness, shape, and space;

(K) edit files using appropriate digital editing tools and established design principles such as consistency, repetition, alignment, proximity, white space, image file size, color use, font size, type, and style; and

(L) identify pictorial qualities in a design such as shape and form, space and depth, or pattern and texture to create visual unity and desired effects in designs.

(2) Communication and collaboration. The student uses digital media and environments to communicate and work collaboratively, including at a distance, to support individual learning and contribute to the learning experience of others. The student is expected to:

(A) use vocabulary as it relates to digital art, audio, and animation;

(B) demonstrate the use of technology to participate in self-directed and collaborative activities within the global community;

(C) participate in electronic communities;

(D) create technology specifications for tasks and rubrics for the evaluation of products;

(E) design and implement procedures to track trends, set timelines, and evaluate products;

(F) collaborate with peers in delineating technological tasks;

(G) publish and save information in a variety of ways, including print or digital formats;

(H) analyze and evaluate projects for design, content delivery, purpose, and audience; and

(I) critique original 3-D digital artwork, portfolios, and products with peers.

(3) Research and information fluency. The student applies digital tools to gather, evaluate, and use information. The student is expected to:

(A) distinguish among and correctly apply process color (RGB and CYMK), spot color, and black or white;

(B) research the history of 3-D modeling and 3-D animation;

(C) research career choices in 3-D modeling and 3-D animation;

(D) use the Internet to retrieve information in an electronic format;

(E) demonstrate the appropriate use of 3-D objects, digital imaging, video integration, and sound retrieved from an electronic format;

(F) import sounds from a variety of sources; and

(G) create planning designs such as rough sketches, storyboards, and brainstorming materials.

(4) Critical thinking, problem solving, and decision making. The student uses critical-thinking skills to plan and conduct research, manage projects, solve problems, and make informed decisions using appropriate digital tools and resources. The student is expected to:

(A) distinguish between and use the components of 3-D animation software programs such as cast, score, environment, the X-Y-Z coordinate system, and the animation manipulation interface;

(B) distinguish between and use the different 3-D modeling techniques such as box modeling, transformation, and polygon primitives using extrusion and rotation.
(C) distinguish between and use the different 3-D animation techniques such as path and rendering using dynamics and physics;

(D) apply a variety of color schemes such as monochromatic, analogous, complementary, primary/secondary triads, cool/warm colors, and split complements to digital designs;

(E) use the basic concepts of color and design theory such as working with 3-D models and environments, characters, objects, and other cast members as needed for the animation;

(F) use the appropriate rendering techniques to create an animation;

(G) use a variety of lighting techniques such as shadow, shading, point, spot, directional, and ambient to create effects; and

(H) define the design attributes and requirements of a 3-D animation project.

(5) Digital citizenship. The student understands human, cultural, and societal issues related to technology and practices legal and ethical behavior. The student is expected to:

(A) discuss copyright laws/issues and use of digital information such as attributing ideas and citing sources using established methods;

(B) define plagiarism and model respect of intellectual property;

(C) demonstrate proper digital etiquette and knowledge of acceptable use policies when using technology; and

(D) evaluate the validity and reliability of sources.

(6) Technology operations and concepts. The student demonstrates a sound understanding of technology concepts, systems, and operations. The student is expected to:

(A) demonstrate knowledge and appropriate use of operating systems, software applications, and communication and networking components;

(B) make decisions regarding the selection and use of software and Internet resources;

(C) make necessary adjustments regarding compatibility issues with digital file formats, importing and exporting data, and cross-platform compatibility; and

(D) read, use, and develop technical documentation.

§130.126. Digital Communications in the 21st Century (One Credit).

(a) General requirements. Students shall be awarded one credit for successful completion of this course. This course is recommended for students in Grades 9-12.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Arts, Audio/Video Technology, and Communications Career Cluster focuses on careers in designing, producing, exhibiting, performing, writing, and publishing multimedia content including visual and performing arts and design, journalism, and entertainment services.

(3) Digital Communications in the 21st Century will prepare students for the societal demands of increased civic literacy, independent working environments, global awareness, and the mastery of a base set of analysis and communication skills. Students will be expected to design and present an effective product based on well-researched issues in order to thoughtfully propose suggested solutions to authoritative stakeholders. The outcome of the process and product approach is to provide students an authentic platform to demonstrate effective application of multimedia tools within the contexts of global communication and collaborative communities and appropriately share their voices to affect change that concerns their future. The six strands include creativity and innovation; communication and collaboration; research and information fluency; critical thinking; problem solving, and decision making; digital citizenship; and technology operations and concepts.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) Creativity and innovation. The student demonstrates the ability to analyze, evaluate, and adapt during the creative problem-solving process and demonstrates creative thinking in developing solutions to real-world issues using digital tools. The student is expected to:

(A) generate innovative, sustainable solutions for real-world issues such as global warming, immigration, or the global economy using emerging digital tools;

(B) gather and evaluate accurate information for feasibility and practicality as a basis for making communication decisions; and

(C) analyze the ethical and social responsibilities as a project team when communicating with peers, stakeholders, and experts.

(2) Creativity and innovation. The student uses innovative thinking to develop new ideas and processes for solving real-world issues and conveying those ideas to a global audience through a persuasive digital product. The student is expected to:

(A) examine real-world issues relating to current topics such as health care, government, business, or aerospace;

(B) develop innovative solutions to address issues;

(C) create unique methods and products conveying solutions to audiences beyond the classroom such as school officials, non-profit organizations, higher education officials, government, or other stakeholders;

(D) demonstrate the effective use and importance of verbal and nonverbal communication skills when presenting ideas and solutions to diverse audiences; and

(E) use appropriate techniques to manage communication apprehension, build self-confidence, and gain command of information.

(3) Communication and collaboration. The student develops a process to effectively communicate with peers, experts, and other audiences about current issues and solutions to global problems. The student is expected to:

(A) demonstrate innovative uses of a wide range of emerging technologies, including online learning, mobile devices,
digital content, and Web 2.0 tools such as podcasting, wikis, and blogs;

(B) participate within appropriate electronic communities as a learner, initiator, and contributor;

(C) extend the learning environment beyond the school walls using appropriate digital tools;

(D) collaborate with a variety of field experts;

(E) prepare for, organize, and participate in an informative or persuasive group discussion with an audience; and

(F) participate appropriately in conversations by making clear requests, giving accurate directions, and asking purposeful questions.

(4) Communication and collaboration. The student uses digital tools to facilitate collaboration and communication in the design, development, and evaluation of products offering solutions to real-world issues. The student is expected to:

(A) design and organize resources to create an effective collaborative working environment that enables a group to investigate a local, state, national, or global issue;

(B) analyze and evaluate effective communication;

(C) demonstrate leadership by managing project activities such as timelines, research, product development, marketing material, and effective communication skills;

(D) demonstrate effective management of diverse peer-group dynamics such as solving problems, managing conflicts, and building consensus; and

(E) evaluate original products for accuracy, validity, and compliance with copyright laws.

(5) Research and information fluency. The student uses a variety of strategies to acquire and evaluate information relating to real-world issues. The student is expected to:

(A) locate authoritative information from primary and secondary sources such as field experts, online full-text databases, or current news databases;

(B) make decisions regarding the selection, acquisition, and use of information gathered, taking into consideration its quality, appropriateness, effectiveness, and level of interest to society; and

(C) demonstrate fluency in the use of a variety of electronic sources such as cloud computing, emerging collaboration technologies, data mining strategies, and mobile or other technologies.

(6) Research and information fluency. The student uses a variety of digital tools to synthesize information related to real-world issues in student-created materials. The student is expected to:

(A) construct real-world informational materials that inform, persuade, or recommend reform of selected issues;

(B) identify and employ a method to evaluate the design, functionality, and accuracy of the student-created materials; and

(C) use effective strategies to organize and outline presentations to support and clarify points.

(7) Critical thinking, problem solving, and decision making. The student uses critical-thinking skills to conduct research, manage products, solve problems, and make informed decisions for real-world, local, state, national, and global issues. The student is expected to:

(A) identify and define authentic problems and significant questions for investigation;

(B) design and implement procedures to track trends, set timelines, and review and evaluate progress for project completion;

(C) read and use technical documentation, including appropriate help options, to complete tasks; and

(D) analyze the audience, occasion, and purpose when designing presentations.

(8) Critical thinking, problem solving, and decision making. The student creates a product presenting solutions for real-world local, state, national, and global issues. The student is expected to:

(A) create technology specifications for tasks and rubrics to evaluate products and product quality against established criteria;

(B) resolve information conflicts and validate information by comparing data;

(C) represent diverse perspectives in problem solutions; and

(D) prepare and use visual or auditory aids such as scripts, notes, or digital applications to enhance presentations.

(9) Digital citizenship. The student examines ethical and legal behavior to demonstrate leadership as a digital citizen. The student is expected to:

(A) model safe and ethical use of digital information;

(B) model respect of intellectual property when manipulating, morphing, or editing graphics, video, text, and sound;

(C) use technology applications in a positive manner that supports productivity, collaboration, and continuing education; and

(D) use professional etiquette and protocol in situations such as making introductions, offering and receiving criticism, and communicating with digital tools.

(10) Digital citizenship. The student demonstrates ethical and legal behavior in the creation of student products. The student is expected to:

(A) use collaborative tools and strategies; and

(B) use digital tools to correctly document sources such as in bibliographies or works cited.

(11) Technology operations and concepts. The student makes decisions regarding the selection, acquisition, and use of digital tools in a multimedia classroom/lab, taking into consideration the quality, appropriateness, effectiveness, and efficiency of the tools. The student is expected to:

(A) determine the most appropriate file type based on universally recognized file formats such as portable document format (PDF), text format (TXT), rich text format (RTF), and Joint Photographic Experts Group format (JPEG);

(B) use compression schemes for photo, animation, video, and graphics; and

(C) distinguish among appropriate color, sound, and design principles such as consistency, repetition, alignment, proximity, and ratio of text to white space.

(12) Technology operations and concepts. The student demonstrates knowledge through various cloud and network technolo-
gies such as web-based interactive presentations, document sharing, and online scholarly databases. The student is expected to:

(A) use necessary vocabulary related to digital tools;
(B) retrieve and discriminate between authoritative and non-authoritative data sources; and
(C) adopt, adapt, and transfer prior knowledge to multiple situations when retrieving, manipulating, and creating original digital projects.

§130.127. Web Game Development (One Credit).

(a) General requirements. Students shall be awarded one credit for successful completion of this course. Recommended prerequisite: Web Design. This course is recommended for students in Grades 11 and 12.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Arts, Audio/Video Technology, and Communications Career Cluster focuses on careers in designing, producing, exhibiting, performing, writing, and publishing multimedia content including visual and performing arts and design, journalism, and entertainment services.

(3) Web Game Development will allow students to demonstrate creative thinking, develop innovative strategies, and use digital and communication tools necessary to develop fully functional online games. Web Game Development has career applications for many aspects of the game industry, including programming, art principles, graphics, web design, storyboarding and scripting, and business and marketing. The six strands include creativity and innovation; communication and collaboration; research and information fluency; critical thinking; problem solving; and decision making; digital citizenship; and technology operations and concepts.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) Creativity and innovation. The student demonstrates creative thinking, constructs knowledge, and develops innovative products and processes using technology. The student is expected to:

(A) research, evaluate, and demonstrate appropriate design of a web-based gaming site;
(B) illustrate ideas for web artwork from direct observations, experiences, and imagination;
(C) create original designs for web applications; and
(D) demonstrate the effective use of art media to create original web designs.

(2) Communication and collaboration. The student uses digital media and environments to communicate and work collaboratively, including at a distance, to support individual learning and contribute to the learning experience of others. The student is expected to:

(A) understand and evaluate the use and appropriateness of webinars;
(B) examine, discuss, and summarize interactive online learning environments;
(C) distinguish between distance learning, virtual learning, and online learning;
(D) define and evaluate Voice over Internet Protocol (VoIP);
(E) identify and apply end-user, peer, self-, and professional evaluations; and
(F) work collaboratively to create functioning programs and gaming products.

(3) Research and information fluency. The student applies digital tools to gather, evaluate, and use information. The student is expected to:

(A) research, evaluate, and create web forms for database processing;
(B) identify the various programming languages and differentiate among the available web programming languages;
(C) research, evaluate, and summarize content management systems (CMS);
(D) differentiate between Common Gateway Interface (CGI) and computer-generated imagery (CGI);
(E) discuss, analyze, and summarize streaming media/content and game broadcasting;
(F) define and evaluate instant messaging (IM) within a game environment;
(G) analyze and discuss the history of gaming;
(H) discuss, analyze, compare, and contrast game types such as action, action-adventure, adventure, construction and management simulation, life simulation, massively multiplayer online role-playing (MMORPG), music, party, puzzle, role-playing, sports, strategy, trivia, and vehicle simulation;
(I) discuss, analyze, compare, and contrast gaming hardware, including console, personal computer, mobile, and web;
(J) compare and contrast web standards versus browser-specific languages;
(K) research, evaluate, and summarize e-commerce;
(L) investigate career opportunities in programming, gaming, art, design, business, and marketing;
(M) research the characteristics of existing gaming websites to determine local, state, national, and global trends;
(N) compare and contrast historical and contemporary styles of art as applied to website development;
(O) compare and contrast the use of the art elements of color, texture, form, line, space, and value and the art principles of emphasis, pattern, rhythm, balance, proportion, and unity in personal web game artwork and the web game artwork of others, using vocabulary accurately;
(P) describe general characteristics in artwork from a variety of cultures that influence web game design;
(Q) research and evaluate emerging technologies; and

PROPOSED RULES  March 6, 2020  45 TexReg 1559
(R) research and evaluate augmented reality (the supplementing of reality with computer-generated imagery) such as heads-up display and virtual digital projectors.

(4) Critical thinking, problem solving, and decision making. The student uses critical-thinking skills to plan and conduct research, manage projects, solve problems, and make informed decisions using appropriate digital tools and resources. The student is expected to:

(A) select an appropriate web programming language based on given criteria;

(B) develop requirements for a database and determine the appropriate means to insert, delete, and modify records;

(C) develop Structured Query Language (SQL) statements to retrieve, insert, modify, and delete records in a database;

(D) design and create a flow diagram to plan a database, program, and game;

(E) define and identify proper use of gaming graphics, including skins, textures, environment appearance, environment mapping, raster graphics, and vector graphics;

(F) plan an animation that includes the movement of characters, camera movements, camera angles, user point of view, mechanics of motion, backgrounds, settings, ambient objects, and environments;

(G) compare and contrast two-dimensional (2-D) and three-dimensional (3-D) animation;

(H) develop and create a gaming storyboard and script that shows the overall development of a storyline;

(I) identify and implement graphic and game design elements, including color, environment, time to completion, difficulty, story complexity, character development, device control, backstory, delivery, and online player(s);

(J) design and create decision trees for a game's artificial intelligence engine;

(K) compare and contrast available audio formats for optimal delivery;

(L) identify the similarities and differences among platforms, including the application of coding on a personal computer, mobile device, and gaming console;

(M) research and identify existing online game development tools;

(N) evaluate and determine network requirements for the delivery of online games to end users; and

(O) create visual solutions by elaborating on direct observation, experiences, and imagination as they apply to original web design.

(5) Digital citizenship. The student understands human, cultural, and societal issues related to technology and practices legal and ethical behavior. The student is expected to:

(A) explain game ratings and why games fit into certain ratings;

(B) assess games and game ratings in terms of their impact on societal interactions;

(C) model the ethical and legal acquisition of digital information following copyright laws, fair-use guidelines, and the student code of conduct;

(D) define and practice the ethical and legal acquisition, sharing, and use of files taking into consideration their primary ownership and copyright;

(E) examine original web game artwork to comply with appropriate behavioral, communication, and privacy guidelines, including ethics, online bullying and harassment, personal security, appropriate audience language, ethical use of files/file sharing, technical documentation, and online communities;

(F) interpret, evaluate, and justify artistic decisions in the creation of original art for web game design; and

(G) analyze original web game artwork and digital portfolios created by peers and others to form precise conclusions about formal qualities, historical and cultural contexts, intents, and meanings.

(6) Technology operations and concepts. The student demonstrates a sound understanding of technology concepts, systems, and operations. The student is expected to:

(A) create a website that includes:

(i) an interactive database with elements such as SQL statements, Extensible Markup Language (XML), and Open Database Connectivity (ODBC);

(ii) javascript; and

(iii) server-side processing, including Common Gateway Interface (CGI); bitmap and vector graphics; database creation, modification, and deletion; creation and maintenance of user accounts; user authentication; and documentation;

(B) create a fully functional online game that includes:

(i) multiple game levels with increasing difficulty;

(ii) high-score ranking;

(iii) physics, including center of mass, collision detection, lighting, shading, perspective, anatomy, motion blur, lens flare, and reflections;

(iv) art principles, including color theory, texture, balance, lighting, shading, skinning, and drawing;

(v) graphics resolution, including pixel depth and compression;

(vi) database creation, modification, and deletion;

(vii) creation and maintenance of user accounts;

(viii) user authentication;

(ix) artificial intelligence;

(x) game-level saving;

(xi) mathematical functions;

(xii) varying camera angles;

(xiii) VoIP for online web games; and

(xiv) documentation; and

(C) create a digital portfolio.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.
SUBCHAPTER K. INFORMATION TECHNOLOGY

19 TAC §§130.308 - 130.310

STATUTORY AUTHORITY. The repeals are proposed under Texas Education Code (TEC), §7.102(c)(4), which requires the State Board of Education (SBOE) to establish curriculum and graduation requirements; TEC, §28.002(a), which identifies the subjects of the required curriculum; TEC, §28.002(c), which requires the SBOE to by rule identify the essential knowledge and skills of each subject in the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials and addressed on the state assessment instruments; and TEC, §28.025(a), which requires the SBOE to by rule determine the curriculum requirements for the foundation high school graduation program that are consistent with the required curriculum under the TEC, §28.002.

CROSS REFERENCE TO STATUTE. The repeals implement Texas Education Code, §§7.102(c)(4); 28.002(a) and (c); and 28.025(a).

§130.308. Web Technologies (One Credit), Adopted 2015.

§130.309. Computer Programming I (One Credit), Adopted 2015.

§130.310. Computer Programming II (One Credit), Adopted 2015.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency’s legal authority to adopt.

19 TAC §§130.315 - 130.318

STATUTORY AUTHORITY. The new sections are proposed under Texas Education Code (TEC), §7.102(c)(4), which requires the State Board of Education (SBOE) to establish curriculum and graduation requirements; TEC, §28.002(a), which identifies the subjects of the required curriculum; TEC, §28.002(c), which requires the SBOE to by rule identify the essential knowledge and skills of each subject in the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials and addressed on the state assessment instruments; and TEC, §28.025(a), which requires the SBOE to by rule determine the curriculum requirements for the foundation high school graduation program that are consistent with the required curriculum under the TEC, §28.002.

CROSS REFERENCE TO STATUTE. The new sections implement Texas Education Code, §§7.102(c)(4); 28.002(a) and (c); and 28.025(a).

§130.315. Web Communications (One-Half Credit).

(a) General requirements. Students shall be awarded one-half credit for successful completion of this course. This course is recommended for students in Grade 9.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Information Technology (IT) Career Cluster focuses on building linkages in IT occupations for entry level, technical, and professional careers related to the design, development, support, and management of hardware, software, multimedia, and systems integration services.

(3) In Web Communications, students will acquire knowledge of web communications and technological operations and concepts. This is an exploratory course in web communications. The six strands include creativity and innovation; communication and collaboration; research and information fluency; critical thinking; problem solving, and decision making; digital citizenship; and technology operations and concepts.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word “including” reference content that must be mastered, while those containing the phrase “such as” are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) Creativity and innovation. The student demonstrates creative thinking, constructs knowledge, and develops innovative products and processes using technology. The student is expected to:

(A) demonstrate proficiency in the use of local and online collaboration;

(B) create websites using web editors or web authoring programs;

(C) evaluate the accessibility and usability of original websites; and

(D) conceptualize possible technologies based on current technical trends.

(2) Communication and collaboration. The student uses digital technology to work collaboratively toward his or her own learning and the learning of others. The student is expected to:

(A) analyze and implement the proper and acceptable use of digital/virtual communications technologies such as instant messaging (IM), chat, email, and social networking;

(B) define and implement the acquisition, sharing, and use of files taking into consideration primary ownership and copyright;
(C) apply decisions regarding the selection, acquisition, and sharing of uniform resource locators (URLs) used in research, taking into consideration their quality, appropriateness, and effectiveness; and

(D) solve problems using critical-thinking strategies.

(3) Research and information fluency. The student applies digital tools to gather, evaluate, and use information. The student is expected to:

(1) verify the accuracy, validity, and currency of acquired information;

(2) conduct effective searches using Boolean operators;

(3) acquire and use appropriate vocabulary terms;

(D) cite sources appropriately using established methods;

(E) model ethical and legal acquisition of digital information following guidelines in the student code of conduct, including plagiarism and copyright laws;

(F) identify and discuss emerging technologies and their impact;

(G) understand Internet history and structure and how they impact current use; and

(H) demonstrate appropriate use of grammar, spelling, and vocabulary when creating original work.

(4) Critical thinking, problem solving, and decision making. The student uses critical-thinking skills to plan and conduct research, manage projects, solve problems, and make informed decisions using appropriate digital tools and resources. The student is expected to:

(A) demonstrate the transfer and adaptation of knowledge through the creation of original work;

(B) evaluate and implement security measures such as firewalls and Hypertext Transfer Protocol Secure (HTTPS) to protect original work;

(C) analyze and follow timelines needed to create, edit, and present original work;

(D) verify current licensing issues for software being used for the creation of original work;

(E) identify and evaluate the design and functionality of web pages using rubrics;

(F) optimize web information for fast download such as dial-up and high-speed Internet and mobile devices; and

(G) evaluate original work through self-, peer, and professional review of websites.

(5) Digital citizenship. The student understands human, cultural, and societal issues related to technology and practices legal and ethical behavior. The student is expected to:

(A) engage in online activities that follow appropriate behavioral, communication, and privacy guidelines, including ethics, personal security, and verbiage determined by the intended audience;

(B) understand the negative impact of inappropriate technology use, including online bullying and harassment;

(C) implement online security guidelines, including identity protection, limited personal information sharing, and password protection of a secure website; and

(D) advocate and practice safe, legal, and responsible use of information and technology.

(6) Technology operations and concepts. The student demonstrates a sound understanding of technology concepts, systems, and operations. The student is expected to:

(A) demonstrate knowledge of hardware such as scanners, cameras, printers, video cameras, and external hard drives;

(B) identify the parts of a computer and explain their functions;

(C) summarize the need, functionality, and use of servers;

(D) identify the advantages and disadvantages of running a personal web server versus using a web server provider;

(E) differentiate and appropriately use various input, processing, output, and primary/secondary storage devices;

(F) create and implement universally accessible documents;

(G) analyze bandwidth issues as they relate to audience, servers, connectivity, and cost;

(H) establish a folder/directory hierarchy for storage of a web page and its related or linked files;

(I) follow file and folder naming conventions, including spacing, special characters, and capitalization; and

(J) identify basic design principles when creating a website.

§130.316. Web Design (One Credit).

(a) General requirements. Students shall be awarded one credit for successful completion of this course. This course is recommended for students in Grades 9-12.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Information Technology (IT) Career Cluster focuses on building linkages in IT occupations for entry level, technical, and professional careers related to the design, development, support, and management of hardware, software, multimedia, and systems integration services.

(3) In Web Design students will acquire knowledge of web design and technological operations and concepts that support creativity, innovation, collaboration, information fluency, critical thinking and decision making. The six strands include creativity and innovation; communication and collaboration; research and information fluency; critical thinking; problem solving, and decision making; digital citizenship; and technology operations and concepts.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word “including” reference content that must be mastered, while those containing the phrase “such as” are intended as possible illustrative examples.
(c) Knowledge and skills.

(1) Creativity and innovation. The student demonstrates creative thinking, constructs knowledge, and develops innovative products and processes using technology. The student is expected to:

(A) demonstrate proficiency in local and online collaboration;
(B) create a website using web editors and web authoring programs;
(C) evaluate the accessibility and usability of an original website as it relates to a target audience;
(D) conceptualize new possible technologies based on current technical trends;
(E) analyze the use of virtualization such as virtual classrooms, distance learning, virtual storage, and a virtual operating system;
(F) demonstrate knowledge and appropriate use of operating systems, software applications, and communication and networking components; and
(G) make decisions regarding the selection, acquisition, and use of software, taking into consideration its quality, appropriateness, effectiveness, and efficiency.

(2) Communication and collaboration. The student uses digital media and environments to communicate and work collaboratively, including at a distance, to support individual learning and contribute to the learning experience of others. The student is expected to:

(A) analyze and implement the proper and acceptable use of digital/virtual communications technologies such as instant messaging (IM), chat, email, and social networking;
(B) define and implement the acquisition, sharing, and use of files, taking into consideration their primary ownership and copyright;
(C) apply decisions regarding the selection, acquisition, and sharing of uniform resource locators (URLs) used in research, taking into consideration their quality, appropriateness, and effectiveness;
(D) solve problems using critical-thinking strategies; and
(E) compare, evaluate, and implement the use of wired versus wireless access.

(3) Research and information fluency. The student applies digital tools to gather, evaluate, and use information. The student is expected to:

(A) verify the accuracy, validity, and currency of acquired information;
(B) conduct effective searches with Boolean operators;
(C) acquire and use appropriate vocabulary terms;
(D) cite sources appropriately using established methods;
(E) model ethical and legal acquisition of digital information following guidelines in the student code of conduct, including plagiarism and copyright laws;
(F) identify and discuss emerging technologies and their impact;

(G) understand Internet history and structure and how they impact current use;
(H) demonstrate appropriate use of grammar, spelling, and vocabulary when creating original work;
(I) acquire, evaluate, and use various web standards such as World Wide Web Consortium (W3C), Ecma International, and Internet Corporation for Assigned Names and Numbers (ICANN) to make informed decisions and implement standards in original work;
(J) understand, analyze, and use interactive websites;
(K) understand, evaluate, and determine the appropriate use of dynamic and static websites;
(L) understand, evaluate, and determine the appropriate use of open/closed source file formats and software;
(M) explain and demonstrate how search engines work such as advanced options, preferences, advertising, and search categories;
(N) evaluate, create, and apply principles of project management, including web storyboards, site maps, job duties, time constraints, group dynamics, communication interaction, and project completion, evaluation, and feedback;
(O) understand the use and application of a virtual private network (VPN);
(P) distinguish among protocols, including Hypertext Transfer Protocol (HTTP) and File Transfer Protocol (FTP);
(Q) summarize the technical needs of a World Wide Web server, including random access memory (RAM), hard disk capacity, central processing unit (CPU) speed, busses, methods of connectivity, and appropriate software;
(R) demonstrate proficiency in the use of a variety of electronic input devices such as keyboard, scanner, voice/sound recorder, mouse, touch screen, or digital video by incorporating such components while publishing web pages;
(S) demonstrate proper digital etiquette and knowledge of acceptable use policies when using networks, especially resources on the Internet and intranets;
(T) demonstrate proficiency in and appropriate use and navigation of local area networks (LANs), wide area networks (WANs), the Internet, and intranets for research and resource sharing;
(U) construct appropriate search strategies in the acquisition of information from the Internet, including keyword searches and searches with Boolean operators; and
(V) acquire information in electronic formats, including text, audio, video, and graphics, citing the source.

(4) Critical thinking, problem solving, and decision making. The student uses critical-thinking skills to plan and conduct research, manage projects, solve problems, and make informed decisions using appropriate digital tools and resources. The student is expected to:

(A) demonstrate the transfer and adaptation of knowledge through the creation of original work;
(B) evaluate and implement security measures to protect original work such as firewalls and Hypertext Transfer Protocol Secure (HTTPS);
(C) analyze and follow timelines needed to create, edit, and present original work.
(D) verify current licensing issues for software being used for the creation of original work;

(E) identify and evaluate the design and functionality of web pages using rubrics;

(F) optimize web information for fast download such as dial-up and high-speed Internet and mobile devices;

(G) evaluate original work through self-, peer, and professional review of websites;

(H) evaluate the types, functions, and target audiences of websites;

(I) read, use, and develop technical documents;

(J) analyze, examine, assess, and decide on servers as they relate to the management of a website;

(K) analyze, examine, assess, and decide on a web host;

(L) analyze, examine, assess, and decide on domain name acquisition and retention;

(M) evaluate the functionality of a website such as color scheme, grammar, technological constraints, age appropriate- ness, cross-platform usability, and user relevant criteria as it relates to an intended audience;

(N) identify software file formats and their characteristics and appropriate use;

(O) identify and apply search engine optimization (SEO) to ensure optimal website visibility;

(P) investigate and choose electronic security methods for a web server to protect from unauthorized access and negative intentions; and

(Q) draw conclusions from data gathered from electronic and telecommunication resources.

(5) Digital citizenship. The student understands human, cultural, and societal issues related to technology and practices legal and ethical behavior. The student is expected to:

(A) engage in online activities that follow appropriate behavioral, communication, and privacy guidelines, including ethics, personal security, verbiage determined by the intended audience, and ethical use of files and file sharing;

(B) understand the negative impact of inappropriate technology use, including online bullying and harassment;

(C) implement online security guidelines, including identity protection, limited personal information sharing, and password protection of a secure website;

(D) engage in safe, legal, and responsible use of information and technology;

(E) understand and respond to local, state, national, and global issues to ensure appropriate cross-browser and cross-platform usability;

(F) interpret, use, and develop a safe online shared computing environment;

(G) identify legal, ethical, appropriate, and safe website marketing practices;

(H) identify legal, ethical, appropriate, and safe multimedia usage, including video, audio, graphics, animation, and emerging trends;

(I) analyze the impact of the World Wide Web on society through research, interviews, and personal observation; and

(J) participate in relevant and meaningful activities in the larger community and society to create electronic projects.

(6) Technology operations and concepts. The student demonstrates a sound understanding of technology concepts, systems, and operations. The student is expected to:

(A) demonstrate knowledge of hardware, including scanners, cameras, printers, video cameras, and external hard drives;

(B) identify the parts of a computer and explain its functions;

(C) summarize the need for and functionality and use of servers;

(D) identify the advantages and disadvantages of running a personal web server versus using a web server provider;

(E) differentiate and appropriately use various input, processing, output, and primary/secondary storage devices;

(F) create and implement universally accessible documents;

(G) analyze bandwidth issues as related to audience, server, connectivity, and cost;

(H) establish a folder/directory hierarchy for storage of a web page and its related or linked files;

(I) create file and folder naming conventions to follow established guidelines, including spacing, special characters, and capitalization;

(J) identify basic design principles when creating a website, including white space, color theory, background color, shape, line, proximity, unity, balance (ratio of text to white space), alignment, typography, font size, type, style, image file size, repetition, contrast, consistency, and aesthetics;

(K) demonstrate knowledge of the six core domains (gov, net, com, mil, org, edu) and be familiar with new domain implementation;

(L) implement escape codes, HyperText Markup Language (HTML), cascading style sheets (CSS), and javascript through hard coding, web editors, and web authoring programs;

(M) identify and use FTP client software;

(N) implement java applet insertion;

(Q) identify and differentiate various network topologies, including physical and logical;

(P) create, evaluate, and use web-based animation;

(Q) create, evaluate, and use video, including editing, compression, exporting, appropriateness, and delivery;

(R) demonstrate the ability to conduct secure communications from a web server to a client; and

(S) use hypertext linking appropriately when creating web pages.

§130.317. Independent Study in Technology Applications (One Credit). Beginning with School Year 2012-2013.

(a) General requirements. Students shall be awarded one credit for successful completion of this course. Recommended prereq-
(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Information Technology (IT) Career Cluster focuses on building linkages in IT occupations for entry level, technical, and professional careers related to the design, development, support, and management of hardware, software, multimedia, and systems integration services.

(3) In Independent Study in Technology Applications, through the study of technology applications foundations, including technology-related terms, concepts, and data input strategies, students will communicate information in different formats and to diverse audiences using a variety of technologies. Students will learn to make informed decisions; develop and produce original work that exemplifies the standards identified by the selected profession or discipline; and publish the product in electronic media and print. Students will practice the efficient acquisition of information by identifying task requirements, using search strategies, and using technology to access, analyze, and evaluate the acquired information. By using technology as a tool that supports the work of individuals and groups in solving problems, students will select the technology appropriate for the task, synthesize knowledge, create solutions, and evaluate the results. The six strands include creativity and innovation; communication and collaboration; research and information fluency; critical thinking; problem solving, and decision making; digital citizenship; and technology operations and concepts.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

c) Knowledge and skills.

(1) Creativity and innovation. The student demonstrates creative thinking, constructs knowledge, and develops innovative products and processes using technology. The student is expected to:

(A) apply existing knowledge to promote creativity in designing new technology products or services;

(B) design and implement procedures to track trends, set timelines, and review and evaluate progress for continual improvement in process and product;

(C) produce electronic documentation to illustrate the progress of a project;

(D) seek and respond to input from peers and professionals in delineating technological tasks and problem solving;

(E) make necessary revisions and/or proceed to the next stage of study;

(F) use technology terminology appropriate to the independent study course;

(G) develop and apply advanced creativity and innovation employed in technology applications skills;

(H) identify and solve problems, individually and with input from peers and professionals, using research methods and advanced creativity and innovation skills used in a selected profession or discipline;

(I) develop products that meet standards identified by the selected profession or discipline; and

(J) produce original work to solve an identified problem and publish a product in electronic media and print.

(2) Communication and collaboration. The student uses digital media and environments to communicate and work collaboratively, including at a distance, to support individual learning and contribute to the learning experience of others. The student is expected to:

(A) format developed projects according to defined output specifications, including target audience and viewing environment;

(B) present findings to a panel for comment and professional response;

(C) define and implement the best method of presenting or publishing findings;

(D) synthesize and publish information in a variety of print or digital formats;

(E) use evolving network and Internet resources and appropriate technology skills to create, exchange, and publish information;

(F) develop cultural understanding and global awareness by interacting with learners of other cultures through evolving digital formats and communication methods;

(G) collaborate with others to identify a problem to be solved, hypotheses, and strategies to accomplish a task;

(H) participate with electronic communities as a learner, initiator, contributor, and facilitator/mentor; and

(I) participate in relevant, meaningful activities in the larger community and society to create electronic projects.

(3) Research and information fluency. The student applies digital tools to gather, evaluate, and use information. The student is expected to:

(A) use evolving network and Internet resources for research and resource sharing of technology applications;

(B) apply appropriate search strategies in the acquisition of information from the Internet, including keyword and Boolean search strategies;

(C) pose hypotheses and questions related to a selected problem;

(D) acquire information using appropriate research strategies with source citations through electronic formats, including interactive components, text, audio, video, graphics, and simulations; and

(E) identify, create, and use available file formats, including text, image, video, and audio files.

(4) Critical thinking, problem solving, and decision making. The student uses critical-thinking skills to plan and conduct research, manage projects, solve problems, and make informed decisions using appropriate digital tools and resources. The student is expected to:

PROPOSED RULES  March 6, 2020  45 TexReg 1565
(A) evaluate the design, functionality, and accuracy of the accessed information;

(B) conduct systematic research;

(C) demonstrate creative-thinking and problem-solving skills;

(D) integrate appropriate productivity tools, including network, mobile access, and multimedia tools, in the creation of solutions to problems;

(E) use enriched curricular content in the creation of products;

(F) synthesize and generate new information from data gathered from electronic resources;

(G) read and use technical documentation; and

(H) write simple technical documentation relative to the audience.

(5) Digital citizenship. The student understands human, cultural, and societal issues related to technology and practices legal and ethical behavior. The student is expected to:

(A) discuss intellectual property, privacy, sharing of information, copyright laws, and software licensing agreements;

(B) model ethical acquisition and use of digital information;

(C) model respect of intellectual property when editing graphics, video, text, and sound files;

(D) demonstrate proper etiquette, responsible use of software, and knowledge of acceptable use policies when using network resources;

(E) demonstrate best practices in understanding and applying information security;

(F) develop and maintain a technical documentation library in a variety of formats; and

(G) investigate how technology has changed and the social and ethical ramifications of computer usage.

(6) Technology operations and concepts. The student demonstrates a sound understanding of technology concepts, systems, and operations. The student is expected to:

(A) demonstrate knowledge and appropriate use of input devices, operating systems, software applications, and communication and networking components;

(B) select, acquire, and use appropriate digital tools;

(C) delineate and make necessary adjustments regarding compatibility issues, including digital file formats and cross-platform connectivity; and

(D) use appropriate technology terminology and naming conventions.

§130.318. Independent Study in Evolving/Emerging Technologies (One Credit).

(a) General requirements. Students shall be awarded one credit for successful completion of this course. Recommended prerequisite: a minimum of one credit from the courses in the Information Technology Career Cluster. This course may be taken at Grades 9-12.

(b) Introduction.
(I) develop products that meet standards identified by a selected profession or discipline; and

(J) produce original work to solve an identified problem and publish a product in electronic media and print.

(2) Communication and collaboration. The student uses digital media and environments to communicate and work collaboratively, including at a distance, to support individual learning and contribute to the learning experience of others. The student is expected to:

(A) format developed projects according to defined output specifications, including target audience and viewing environment;

(B) present findings to a panel for comment and professional response;

(C) determine and implement the best method of presenting or publishing findings;

(D) synthesize and publish information in a variety of print or digital formats;

(E) use evolving network resources and appropriate technology skills to create, exchange, and publish information;

(F) develop cultural understanding and global awareness by interacting with learners of other cultures through evolving digital formats and communication methods;

(G) collaborate with others to identify a problem to be solved, hypotheses, and strategies to accomplish a task;

(H) participate with electronic communities as a learner, initiator, contributor, and facilitator/mentor; and

(I) participate in relevant, meaningful activities in the larger community and society to create electronic projects.

(3) Research and information fluency. The student applies digital tools to gather, evaluate, and use information. The student uses a variety of strategies to acquire information from electronic resources, with appropriate supervision. The student is expected to:

(A) use evolving network and Internet resources for research and resource sharing of technology applications;

(B) apply appropriate search strategies in the acquisition of information from the Internet, including keyword and Boolean search strategies;

(C) pose hypotheses and questions related to a selected problem;

(D) acquire information using appropriate research strategies with source citations through electronic formats, including interactive components, text, audio, video, graphics, and simulations; and

(E) identify, create, and use available file formats, including text, image, video, and audio files.

(4) Critical thinking, problem solving, and decision making. The student uses critical-thinking skills to plan and conduct research, manage projects, solve problems, and make informed decisions using appropriate digital tools and resources. The student is expected to:

(A) evaluate the design, functionality, and accuracy of the accessed information;

(B) conduct systematic research;

(C) demonstrate creative-thinking and problem-solving skills;

(D) integrate appropriate productivity tools, including network, mobile access, and multimedia tools, in the creation of solutions to problems;

(E) use enriched curricular content in the creation of products;

(F) synthesize and generate new information from data gathered from electronic resources;

(G) read and use technical documentation; and

(H) write simple technical documentation relative to the audience.

(5) Digital citizenship. The student understands human, cultural, and societal issues related to technology and practices legal and ethical behavior. The student is expected to:

(A) discuss intellectual property, privacy, sharing of information, copyright laws, and software licensing agreements;

(B) model ethical acquisition and use of digital information;

(C) model respect of intellectual property when editing graphics, video, text, and sound files;

(D) demonstrate proper etiquette, responsible use of software, and knowledge of acceptable use policies when using network resources;

(E) demonstrate best practices in understanding and applying information security;

(F) develop and maintain a technical documentation library in a variety of formats; and

(G) investigate how technology has changed and the social and ethical ramifications of computer usage.

(6) Technology operations and concepts. The student demonstrates a sound understanding of technology concepts, systems, and operations. The student is expected to:

(A) demonstrate knowledge and appropriate use of input devices, operating systems, software applications, and communication and networking components;

(B) select, acquire, and use appropriate digital tools;

(C) delineate and make necessary adjustments regarding compatibility issues, including digital file formats and cross-platform connectivity; and

(D) use appropriate technology terminology and naming conventions.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency’s legal authority to adopt.

Filed with the Office of the Secretary of State on February 24, 2020.

TRD-202000820
Cristina De La Fuente-Valadez
Director, Rulemaking
Texas Education Agency
Earliest possible date of adoption: April 5, 2020
For further information, please call: (512) 475-1497
CHAPTER O. SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS

19 TAC §§130.420 - 130.435

STATUTORY AUTHORITY. The new sections are proposed under Texas Education Code (TEC), §7.102(c)(4), which requires the State Board of Education (SBOE) to establish curriculum and graduation requirements: TEC, §28.002(a), which identifies the subjects of the required curriculum; TEC, §28.002(c), which requires the SBOE to by rule identify the essential knowledge and skills of each subject in the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials and addressed on the state assessment instruments; and TEC, §28.025(a), which requires the SBOE to by rule determine the curriculum requirements for the foundation high school graduation program that are consistent with the required curriculum under the TEC, §28.002.

CROSS REFERENCE TO STATUTE. The new sections implement Texas Education Code, §§7.102(c)(4); 28.002(a) and (c); and 28.025(a).

§130.420. Fundamentals of Computer Science (One Credit).

(a) General requirements. Students shall be awarded one credit for successful completion of this course. This course is recommended for students in Grades 9-12.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Science, Technology, Engineering, and Mathematics (STEM) Career Cluster focuses on planning, managing, and providing scientific research and professional and technical services, including laboratory and testing services, and research and development services.

(3) Fundamentals of Computer Science is intended as a first course for those students just beginning the study of computer science. Students will learn about the computing tools that are used every day. Students will foster their creativity and innovation through opportunities to design, implement, and present solutions to real-world problems. Students will collaborate and use computer science concepts to access, analyze, and evaluate information needed to solve problems. Students will learn the problem-solving and reasoning skills that are the foundation of computer science. By using computer science knowledge and skills that support the work of individuals and groups in solving problems, students will select the technology appropriate for the task, synthesize knowledge, create solutions, and evaluate the results. Students will learn digital citizenship by researching current laws and regulations and by practicing integrity and respect. Students will gain an understanding of the principles of computer science through the study of technology operations and concepts. The six strands include creativity and innovation; communication and collaboration; research and information fluency; critical thinking; problem solving; and decision making; digital citizenship; and technology operations and concepts.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) Creativity and innovation. The student develops products and generates new understanding by extending existing knowledge. The student is expected to:

(A) investigate and explore various career opportunities within the computer science field and report findings through various media;

(B) create and publish interactive stories, games, and animations;

(C) create and publish interactive animations;

(D) create algorithms for the solution of various problems;

(E) create web pages using a mark-up language;

(F) use the Internet to create and publish solutions; and

(G) design creative and effective user interfaces.

(2) Communication and collaboration. The student communicates and collaborates with peers to contribute to his or her own learning and the learning of others. The student is expected to:

(A) seek and respond to advice from peers and professionals in evaluating problem solutions;

(B) debug and solve problems using reference materials and effective strategies; and

(C) publish information in a variety of ways such as print, monitor display, web pages, and video.

(3) Research and information fluency. The student locates, analyzes, processes, and organizes data. The student is expected to:

(A) construct appropriate electronic search strategies; and

(B) use a variety of resources, including other subject areas, together with various productivity tools to gather authentic data as a basis for individual and group programming projects.

(4) Critical thinking, problem solving, and decision making. The student uses appropriate strategies to analyze problems and design algorithms. The student is expected to:

(A) demonstrate the ability to insert applets into web pages;

(B) find, download, and insert scripting code into web pages to enhance interactivity;

(C) understand binary representation of data in computer systems, perform conversions between decimal and binary number systems, and count in binary number systems;

(D) read and define a problem’s description, purpose, and goals;

(E) demonstrate coding proficiency in a contemporary programming language by developing solutions that create stories, games, and animations;

(F) choose, identify, and use the appropriate data type to properly represent data in a problem solution;

(G) demonstrate an understanding of and use variables within a programmed story, game, or animation.
§140.421. Computer Science I (One Credit).

(a) General requirements. Students shall be awarded one credit for successful completion of this course. Prerequisite: Algebra I. This course is recommended for students in Grades 9-12.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Science, Technology, Engineering, and Mathematics (STEM) Career Cluster focuses on planning, managing, and providing scientific research and professional and technical services, including laboratory and testing services, and research and development services.

(3) Computer Science I will foster students’ creativity and innovation by presenting opportunities to design, implement, and present meaningful programs through a variety of media. Students will collaborate with one another, their instructor, and various electronic communities to solve the problems presented throughout the course. Through data analysis, students will identify task requirements, plan search strategies, and use computer science concepts to access, analyze, and evaluate information needed to solve problems. By using computer science knowledge and skills that support the work of individuals and groups in solving problems, students will select the technology appropriate for the task, synthesize knowledge, create solutions, and evaluate the results. Students will learn digital citizenship by researching current laws and regulations and by practicing integrity and respect. Students will gain an understanding of the principles of computer science through the study of technology operations, systems, and concepts. The six strands include creativity and innovation; communication and collaboration; research and information fluency; critical thinking; problem solving, and decision making; digital citizenship; and technology operations and concepts.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word “including” reference content that must be mastered, while those containing the phrase “such as” are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) Creativity and innovation. The student develops products and generates new understandings by extending existing knowledge. The student is expected to:

(A) participate with electronic communities as a learner, initiator, contributor, and teacher/mentor;

(B) extend the learning environment beyond the school walls with digital products created to increase teaching and learning in the other subject areas; and

(C) participate in relevant, meaningful activities in the larger community and society to create electronic projects.

(2) Communication and collaboration. The student communicates and collaborates with peers to contribute to his or her own learning and the learning of others. The student is expected to:

(A) create and properly display meaningful output;

(B) create interactive console display interfaces, with appropriate user prompts, to acquire data from a user;

(C) use Graphical User Interfaces (GUIs) to create interactive interfaces to acquire data from a user and display program results;

(D) write programs with proper programming style to enhance the readability and functionality of the code by using mean-
ingful descriptive identifiers, internal comments, white space, spacing, indentation, and a standardized program style;

(E) improve numeric display by optimizing data visualization;

(F) display simple vector graphics using lines, circles, and rectangles;

(G) display simple bitmap images and

(H) seek and respond to advice from peers and professionals in evaluating quality and accuracy;

(3) Research and information fluency. The student locates, analyzes, processes, and organizes data. The student is expected to:

(A) use a variety of resources, including foundation and enrichment curricula, to gather authentic data as a basis for individual and group programming projects; and

(B) use various productivity tools to gather authentic data as a basis for individual and group programming projects.

(4) Critical thinking, problem solving, and decision making. The student uses appropriate strategies to analyze problems and design algorithms. The student is expected to:

(A) use program design problem-solving strategies to create program solutions;

(B) define and specify the purpose and goals of solving a problem;

(C) identify the subtasks needed to solve a problem;

(D) identify the data types and objects needed to solve a problem;

(E) identify reusable components from existing code;

(F) design a solution to a problem;

(G) code a solution from a program design;

(H) identify and debug errors;

(I) test program solutions with appropriate valid and invalid test data for correctness;

(J) debug and solve problems using error messages, reference materials, language documentation, and effective strategies;

(K) explore common algorithms, including finding greatest common divisor, finding the biggest number out of three, finding primes, making change, and finding the average;

(L) analyze and modify existing code to improve the underlying algorithm;

(M) create program solutions that exhibit robust behavior by understanding, avoiding, and preventing runtime errors, including division by zero and type mismatch;

(N) select the most appropriate algorithm for a defined problem;

(O) demonstrate proficiency in the use of the arithmetic operators to create mathematical expressions, including addition, subtraction, multiplication, real division, integer division, and modulus division;

(P) create program solutions to problems using available mathematics libraries, including absolute value, round, power, square, and square root;

(Q) develop program solutions that use assignment;

(R) develop sequential algorithms to solve non-branching and non-iterative problems;

(S) develop algorithms to decision-making problems using branching control statements;

(T) develop iterative algorithms and code programs to solve practical problems;

(U) demonstrate proficiency in the use of the relational operators;

(V) demonstrate proficiency in the use of the logical operators; and

(W) generate and use random numbers.

(5) Digital citizenship. The student explores and understands safety, legal, cultural, and societal issues relating to the use of technology and information. The student is expected to:

(A) discuss intellectual property, privacy, sharing of information, copyright laws, and software licensing agreements;

(B) model ethical acquisition and use of digital information;

(C) demonstrate proper digital etiquette, responsible use of software, and knowledge of acceptable use policies;

(D) investigate measures, including passwords and virus detection/prevention, to protect computer systems and databases from unauthorized use and tampering; and

(E) investigate how technology has changed and the social and ethical ramifications of computer usage.

(6) Technology operations, systems, and concepts. The student understands technology concepts, systems, and operations as they apply to computer science. The student is expected to:

(A) compare and contrast types of operating systems, software applications, and programming languages;

(B) demonstrate knowledge of major hardware components, including primary and secondary memory, a central processing unit (CPU), and peripherals;

(C) differentiate among current programming languages, discuss the use of those languages in other fields of study, and demonstrate knowledge of specific programming terminology and concepts;

(D) differentiate between a high-level compiled language and an interpreted language;

(E) understand concepts of object-oriented design;

(F) use local and global scope access variable declarations;

(G) encapsulate data and associated subroutines into an abstract data type;

(H) create subroutines that do not return values with and without the use of arguments and parameters;

(I) create subroutines that return typed values with and without the use of arguments and parameters;

(J) understand and identify the data-binding process between arguments and parameters;

(K) compare objects using reference values and a comparison routine;
(L) understand the binary representation of numeric and nonnumeric data in computer systems;
(M) understand the finite limits of numeric data;
(N) perform numerical conversions between the decimal and binary number systems and count in the binary number system;
(O) choose, identify, and use the appropriate data types for integer, real, and Boolean data when writing program solutions;
(P) demonstrate an understanding of the concept of a variable;
(Q) demonstrate an understanding of and use reference variables for objects;
(R) demonstrate an understanding of how to represent and manipulate text data, including concatenation and other string functions;
(S) demonstrate an understanding of the concept of scope;
(T) identify and use the structured data type of one-dimensional arrays to traverse, search, and modify data;
(U) choose, identify, and use the appropriate data type and structure to properly represent the data in a program problem solution; and
(V) compare and contrast strongly typed and un-typed programming languages.
§130.422. Computer Science II (One Credit).

(a) General requirements. Students shall be awarded one credit for successful completion of this course. Prerequisite: Algebra I and either Computer Science I or Fundamentals of Computer Science. This course is recommended for students in Grades 11 and 12.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Science, Technology, Engineering, and Mathematics (STEM) Career Cluster focuses on planning, managing, and providing scientific research and professional and technical services, including laboratory and testing services, and research and development services.

(3) Computer Science II will foster students' creativity and innovation by presenting opportunities to design, implement, and present meaningful programs through a variety of media. Students will collaborate with one another, their instructor, and various electronic communities to solve the problems presented throughout the course. Through data analysis, students will identify task requirements, plan search strategies, and use computer science concepts to access, analyze, and evaluate information needed to solve problems. By using computer science knowledge and skills that support the work of individuals and groups in solving problems, students will select the technology appropriate for the task, synthesize knowledge, create solutions, and evaluate the results. Students will learn digital citizenship by researching current laws and regulations and by practicing integrity and respect. Students will gain an understanding of computer science through the study of technology operations, systems, and concepts. The six strands include creativity and innovation; communication and collaboration; research and information fluency; critical think-
(F) display simple vector graphics to interpret and display program results; and
(G) display simple bitmap images.

(3) Research and information fluency. The student locates, analyzes, processes, and organizes data. The student is expected to:

(A) use local area networks (LANs) and wide area networks (WANs), including the Internet and intranets, in research, file management, and collaboration;
(B) understand programming file structure and file access for required resources;
(C) acquire and process information from text files, including files of known and unknown sizes;
(D) manipulate data structures using string processing;
(E) manipulate data values by casting between data types;
(F) identify and use the structured data type of one-dimensional arrays to traverse, search, modify, insert, and delete data;
(G) identify and use the structured data type of two-dimensional arrays to traverse, search, modify, insert, and delete data; and
(H) identify and use a list object data structure to traverse, search, insert, and delete data.

(4) Critical thinking, problem solving, and decision making. The student uses appropriate strategies to analyze problems and design algorithms. The student is expected to:

(A) develop sequential algorithms using branching control statements, including nested structures, to create solutions to decision-making problems;
(B) develop choice algorithms using selection control statements based on ordinal values;
(C) demonstrate proficiency in the use of short-circuit evaluation;
(D) demonstrate proficiency in the use of Boolean algebra, including De Morgan's Law;
(E) develop iterative algorithms using nested loops;
(F) identify, trace, and appropriately use recursion in programming solutions, including algebraic computations;
(G) design, construct, evaluate, and compare search algorithms, including linear searching and binary searching;
(H) identify, describe, design, create, evaluate, and compare standard sorting algorithms, including selection sort, bubble sort, insertion sort, and merge sort;
(I) measure time/space efficiency of various sorting algorithms;
(J) compare and contrast search and sort algorithms, including linear, quadratic, and recursive strategies, for time/space efficiency;
(K) analyze algorithms using "big-O" notation for best, average, and worst-case data patterns;
(L) develop algorithms to solve various problems, including factoring, summing a series, finding the roots of a quadratic equation, and generating Fibonacci numbers;
(M) test program solutions by investigating boundary conditions; testing classes, methods, and libraries in isolation; and performing stepwise refinement;
(N) identify and debug compile, syntax, runtime, and logic errors;
(O) compare and contrast algorithm efficiency by using informal runtime comparisons, exact calculation of statement execution counts, and theoretical efficiency values using "big-O" notation, including worst-case, best-case, and average-case time/space analysis;
(P) demonstrate the ability to count, convert, and perform mathematical operations in the binary and hexadecimal number systems;
(Q) demonstrate knowledge of the maximum integer boundary, minimum integer boundary, imprecision of real number representations, and round-off errors;
(R) create program solutions to problems using the mathematics library class;
(S) use random algorithms to create simulations that model the real world;
(T) identify, understand, and create class specifications and relationships among classes, including composition and inheritance relationships;
(U) understand and explain object relationships among defined classes, abstract classes, and interfaces;
(V) create object-oriented definitions using class declarations, variable declarations, constant declarations, method declarations, parameter declarations, and interface declarations;
(W) create robust classes that encapsulate data and the methods that operate on that data and incorporate overloading to enrich the object’s behavior;
(X) design and implement a set of interactive classes;
(Y) design, create, and evaluate multiclass programs that use abstract classes and interfaces;
(Z) understand and implement a student-created class hierarchy;
(AA) extend, modify, and improve existing code using inheritance;
(BB) create adaptive behaviors, including overloading, using polymorphism;
(CC) understand and use reference variables for object and string data types;
(DD) understand and implement access scope modifiers;
(EE) understand and demonstrate how to compare objects;
(FF) duplicate objects using the appropriate deep and/or shallow copy;
(GG) define and implement abstract classes and interfaces in program problem solutions;
(HH) apply functional decomposition to a program solution;
(II) create simple and robust objects from class definitions through instantiation;
(KK) examine and mutate the properties of an object using accessors and modifiers;

(LL) understand and implement a composite class; and

(MM) design and implement an interface.

(5) Digital citizenship. The student explores and understands safety, legal, cultural, and societal issues relating to the use of technology and information. The student is expected to:

(A) model ethical acquisition and use of digital information;

(B) demonstrate proper digital etiquette, responsible use of software, and knowledge of acceptable use policies; and

(C) investigate digital rights management.

(6) Technology operations and concepts. The student understands technology concepts, systems, and operations as they apply to computer science. The student is expected to:

(A) compare and contrast types of operating systems, software applications, hardware platforms, and programming languages;

(B) demonstrate knowledge of major hardware components, including primary and secondary memory, a central processing unit (CPU), and peripherals;

(C) demonstrate knowledge of major networking components, including hosts, servers, switches, and routers;

(D) demonstrate knowledge of computer communication systems, including single-user, peer-to-peer, workgroup, client-server, and networked;

(E) demonstrate knowledge of computer addressing systems, including Internet Protocol (IP) address and Media Access Control (MAC) address; and

(F) differentiate among the categories of programming languages, including machine, assembly, high-level compiled, high-level interpreted, and scripted.

§130.423. Computer Science III (One Credit).

(a) General requirements. Students shall be awarded one credit for successful completion of this course. Prerequisite: Computer Science II, Advanced Placement (AP) Computer Science A, or International Baccalaureate (IB) Computer Science. This course is recommended for students in Grades 11 and 12.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Science, Technology, Engineering, and Mathematics (STEM) Career Cluster focuses on planning, managing, and providing scientific research and professional and technical services, including laboratory and testing services, and research and development services.

(3) Computer Science III will foster students' creativity and innovation by presenting opportunities to design, implement, and present meaningful programs through a variety of media. Students will collaborate with one another, their instructor, and various electronic communities to solve the problems presented throughout the course. Through data analysis, students will identify task requirements, plan search strategies, and use computer science concepts to access, analyze, and evaluate information needed to solve problems. By using computer science knowledge and skills that support the work of individuals and groups in solving problems, students will select the technology appropriate for the task, synthesize knowledge, create solutions, and evaluate the results. Students will learn digital citizenship by researching current laws and regulations and by practicing integrity and respect. Students will gain an understanding of advanced computer science data structures through the study of technology operations, systems, and concepts. The six strands include creativity and innovation; communication and collaboration; research and information fluency; critical thinking; problem solving, and decision making; digital citizenship; and technology operations and concepts.

(4) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(5) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(c) Knowledge and skills.

(1) Creativity and innovation. The student develops products and generaes new understandings by extending existing knowledge. The student is expected to:

(A) apply data abstraction and encapsulation to manage complexity;

(B) implement a student-created class hierarchy;

(C) read and write class specifications using visual organizers, including Unified Modeling Language;

(D) use black box programming methodology;

(E) design, create, and use interfaces to apply protocols;

(F) identify, describe, design, create, evaluate, and compare standard sorting algorithms that perform sorting operations on data structures, including quick sort and heap sort;

(G) select, identify, and use the appropriate abstract data type, advanced data structure, and supporting algorithms to properly represent the data in a program problem solution; and

(H) manage complexity by using a systems approach.

(2) Communication and collaboration. The student communicates and collaborates with peers to contribute to his or her own learning and the learning of others. The student is expected to:

(A) use local area networks (LANs) and wide area networks (WANS), including the Internet and intranets, in research, file management, and collaboration;

(B) create interactive human interfaces to acquire data from a user and display program results using an advanced Graphical User Interface (GUI);

(C) write programs and communicate with proper programming style to enhance the readability and functionality of the code by using meaningful descriptive identifiers, internal comments, white space, indentation, and a standardized program style; and

(D) work in software design teams.

(3) Research and information fluency. The student locates, analyzes, processes, and organizes data. The student is expected to:
(A) identify and use the structured data type of arrays of objects to traverse, search, modify, insert, and delete data;

(B) identify and use two-dimensional ragged arrays to traverse, search, modify, insert, and delete data;

(C) identify and use a list object data structure, including vector, to traverse, search, insert, and delete object data;

(D) understand and trace a linked-list data structure;

(E) create program solutions using a linked-list data structure, including unordered single, ordered single, double, and circular linked;

(F) understand composite data structures, including a linked list of linked lists;

(G) understand and create program solutions using stacks, queues, trees, heaps, priority queues, graph theory, and enumerated data types;

(H) understand and create program solutions using sets, including HashSet and TreeSet;

(I) understand and create program solutions using maps, including HashMap and TreeMap; and

(J) write and modify text file data.

4. Critical thinking, problem solving, and decision making. The student uses appropriate strategies to analyze problems and design algorithms. The student is expected to:

(A) develop choice algorithms using selection control statements, including break, label, and continue;

(B) demonstrate proficiency in the use of the bitwise operators;

(C) develop iterative algorithms using do-while loops;

(D) demonstrate proficiency in the use of the ternary operator;

(E) create program solutions that use iterators;

(F) identify, trace, and appropriately use recursion;

(G) understand and create program solutions using hashing;

(H) perform pattern recognition using regular expressions;

(I) explore common algorithms, including matrix addition and multiplication, fractals, Towers of Hanoi, and magic square;

(J) create program solutions that exhibit robust behavior by understanding and avoiding runtime errors and handling anticipated errors;

(K) understand object-oriented design concepts of inner classes, outer classes, and anonymous classes;

(L) use object reference scope identifiers, including null, this, and super;

(M) provide object functionality to primitive data types;

(N) write program assumptions in the form of assertions;

(O) write a Boolean expression to test a program assertion; and

(P) construct assertions to make explicit program invariants.

5. Digital citizenship. The student explores and understands safety, legal, cultural, and societal issues relating to the use of technology and information. The student is expected to:

(A) model ethical acquisition and use of digital information; and

(B) demonstrate proper digital etiquette, responsible use of software, and knowledge of acceptable use policies.

6. Technology operations and concepts. The student understands technology concepts, systems, and operations as they apply to computer science. The student is expected to:

(A) compare and contrast high-level programming languages;

(B) create a small workgroup network;

(C) create and apply a basic network addressing scheme; and

(D) create discovery programs in a low-level language, high-level language, and scripting language.

§130.424. Digital Forensics (One Credit), Beginning with School Year 2019-2020.

(a) General requirements. Students shall be awarded one credit for successful completion of this course. This course is recommended for students in Grades 9-12.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Science, Technology, Engineering, and Mathematics (STEM) Career Cluster focuses on planning, managing, and providing scientific research and professional and technical services, including laboratory and testing services, and research and development services.

(3) Digital forensics is an evolving discipline concerned with analyzing anomalous activity on computers, networks, programs, and data. As a discipline, it has grown with the emergence of a globally-connected digital society. As computing has become more sophisticated, so too have the abilities of malicious agents to access systems and private information. By evaluating prior incidents, digital forensics professionals have the ability to investigate and craft appropriate responses to disruptions to corporations, governments, and individuals. Whereas cybersecurity takes a proactive approach to information assurance to minimize harm, digital forensics takes a reactive approach to incident response.

(4) Digital Forensics introduces students to the knowledge and skills of digital forensics. The course provides a survey of the field of digital forensics and incident response.

(5) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(6) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.
(1) Employability skills. The student identifies necessary skills for career development and employment opportunities. The student is expected to:

(A) investigate the need for digital forensics;
(B) research careers in digital forensics along with the education and job skills required for obtaining a job in both the public and private sector;
(C) identify job and internship opportunities as well as accompanying duties and tasks;
(D) identify and discuss certifications for digital forensics careers;
(E) explain ethical and legal responsibilities in relation to the field of digital forensics;
(F) identify and describe businesses and government agencies that use digital forensics;
(G) identify and describe the kinds of crimes investigated by digital forensics specialists; and
(H) solve problems and think critically.

(2) Employability skills. The student communicates and collaborates effectively. The student is expected to:

(A) apply effective teamwork strategies;
(B) collaborate with a community of peers and professionals;
(C) create, review, and edit a report summarizing technical findings; and
(D) present technical information to a non-technical audience.

(3) Ethics and laws. The student recognizes and analyzes ethical and current legal standards, rights, and restrictions related to digital forensics. The student is expected to:

(A) develop a plan to advocate for ethical and legal behaviors both online and offline among peers, family, community, and employers;
(B) research local, state, national, and international law such as the Electronic Communications Privacy Act of 1986, Title III (Pen Register Act); USA PATRIOT Act of 2001; and Digital Millennium Copyright Act;
(C) research historic cases or events regarding digital forensics or cyber;
(D) examine ethical and legal behavior when presented with confidential or sensitive information in various scenarios related to cyber activities;
(E) analyze case studies of computer incidents;
(F) use the findings of a computer incident investigation to reconstruct the incident;
(G) identify and discuss intellectual property laws, issues, and use;
(H) contrast legal and illegal aspects of information gathering;
(I) contrast ethical and unethical aspects of information gathering;
(J) analyze emerging legal and societal trends affecting digital forensics; and
(K) discuss how technological changes affect applicable laws.

(4) Digital citizenship. The student understands and demonstrates the social responsibility of end users regarding digital technology, safety, digital hygiene, and cyberbullying. The student is expected to:

(A) identify and use digital information responsibly;
(B) use digital tools responsibly;
(C) identify and use valid and reliable sources of information; and
(D) gain informed consent prior to investigating incidents.

(5) Digital forensics skills. The student locates, processes, analyzes, and organizes data. The student is expected to:

(A) identify sources of data;
(B) analyze and report data collected;
(C) maintain data integrity;
(D) examine metadata of a file; and
(E) examine how multiple data sources can be used for digital forensics, including investigating malicious software (malware) and email threats.

(6) Digital forensics skills. The student understands software concepts and operations as they apply to digital forensics. The student is expected to:

(A) compare software applications as they apply to digital forensics;
(B) describe the purpose of various application types such as email, web, file sharing, security applications, and data concealment tools;
(C) identify the different purposes of data formats such as pdf, wav, jpeg, and exe;
(D) describe how application logs and metadata are used for investigations;
(E) describe digital forensics tools;
(F) select the proper software tool based on appropriateness, effectiveness, and efficiency for a given digital forensics scenario; and
(G) describe components of applications such as configurations settings, data, supporting files, and user interface.

(7) Digital forensics skills. The student understands operating systems concepts and functions as they apply to digital forensics. The student is expected to:

(A) compare various operating systems;
(B) describe file attributes, including access and creation times;
(C) describe how operating system logs are used for investigations;
(D) compare and contrast the file systems of various operating systems;
(E) compare various primary and secondary storage devices; and
(F) differentiate between volatile and non-volatile memory.

(8) Digital forensics skills. The student understands networking concepts and operations as they apply to digital forensics. The student is expected to:

(A) examine networks, including Internet Protocol (IP) addressing and subnets;
(B) describe the Open Systems Interconnection (OSI) model;
(C) describe the Transmission Control Protocol/Internet Protocol (TCP/IP) model;
(D) use network forensic analysis tools to examine network traffic data from sources such as firewalls, routers, intrusion detection systems (IDS), and remote access logs; and
(E) identify malicious or suspicious network activities such as mandatory access control (MAC) spoofing and rogue wireless access points.

(9) Digital forensics skills. The student explains the principles of access controls. The student is expected to:

(A) define the principle of least privilege;
(B) describe the impact of granting access and permissions;
(C) identify different access components such as passwords, tokens, key cards, and biometric verification systems;
(D) explain the value of an access log to identify suspicious activity;
(E) describe the risks of granting third parties access to personal and proprietary data on social media and systems;
(F) describe the risks involved with Accepting Terms of Service (ToS) or End User License Agreements (EULA) without a basic understanding of the terms or agreements; and
(G) identify various access control methods such as MAC, role-based access control (RBAC), and discretionary access control (DAC).

(10) Incident response. The student follows a methodological approach to prepare for and respond to an incident. The student is expected to:

(A) define the components of the incident response cycle, including preparation; detection and analysis; containment, eradication, and recovery; and post-incident activity;
(B) describe incident response preparation;
(C) discuss incident response detection and analysis;
(D) discuss containment and eradication of and recovery from an incident;
(E) describe post-incident activities such as reflecting on lessons learned, using collected incident data, and retaining evidence of an incident;
(F) develop an incident response plan; and
(G) describe ways a user may compromise the validity of existing evidence.

(11) Incident response. The student objectively analyzes collected data from an incident. The student is expected to:

(A) identify the role of chain of custody in digital forensics;
(B) describe safe data handling procedures;
(C) explain the fundamental concepts of confidentiality, integrity, availability, authentication, and authorization;
(D) identify and report information conflicts or suspicious activity;
(E) identify events of interest and suspicious activity by examining network traffic; and
(F) identify events of interest and suspicious activity by examining event logs.

(12) Incident response. The student analyzes the various ways systems can be compromised. The student is expected to:

(A) analyze the different signatures of cyberattacks; and
(B) identify points of weakness and attack vectors such as online spoofing, phishing, and social engineering.

§130.425  Discrete Mathematics for Computer Science (One Credit), Beginning with School Year 2012-2013.

(a) General requirements. Students shall be awarded one credit for successful completion of this course. Prerequisite: Algebra II. This course is recommended for students in Grades 11 and 12.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Science, Technology, Engineering, and Mathematics (STEM) Career Cluster focuses on planning, managing, and providing scientific research and professional and technical services, including laboratory and testing services, and research and development services.

(3) Discrete Mathematics for Computer Science provides the tools used in most areas of computer science. Exposure to the mathematical concepts and discrete structures presented in this course is essential in order to provide an adequate foundation for further study. Discrete Mathematics for Computer Science is generally listed as a core requirement for Computer Science majors. Course topics are divided into six areas: sets, functions, and relations; basic logic; proof techniques; counting basics; graphs and trees; and discrete probability. Mathematical topics are interwoven with computer science applications to enhance the students’ understanding of the introduced mathematics. Students will develop the ability to see computational problems from a mathematical perspective. Introduced to a formal system (propositional and predicate logic) upon which mathematical reasoning is based, students will acquire the necessary knowledge to read and construct mathematical arguments (proofs), understand mathematical statements (theorems), and use mathematical problem-solving tools and strategies. Students will be introduced to discrete data structures such as sets, discrete functions, and relations and graphs and trees. Students will also be introduced to discrete probability and expectations. The six strands include creativity and innovation; communication and collaboration; research and information fluency; critical thinking; problem solving, and decision making; digital citizenship; and technology operations and concepts.
(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) Creativity and innovation. The student develops products and generates new understanding by extending existing knowledge. The student is expected to:

(A) model algorithms and real-world situations using formal tools of symbolic logic;

(B) model computer science problems by using graphs and trees;

(C) calculate the probabilities of events and expectations of random variables for such problems as games of chance.

(2) Communication and collaboration. The student communicates and collaborates with peers to contribute to his or her own learning and the learning of others. The student is expected to:

(A) convert spoken language statements to appropriate statements in propositional logic;

(B) explain basic terminology of sets, functions, and relations;

(C) state the definition of the Master theorem;

(D) use the context of a particular application to interpret the meaning derived when computing the permutations and combinations of a set;

(E) interpret associated operations and terminology in context; and

(F) define and provide examples of logical equivalence, normal forms, validity, and modus ponens/modus tollens.

(3) Research and information fluency. The student locates, analyzes, processes, and organizes data. The student is expected to:

(A) construct truth tables for negation, conjunction, disjunction, implication, biconditional, and bit operators; and

(B) use truth tables to demonstrate propositional relations.

(4) Critical thinking, problem solving, and decision making. The student uses appropriate strategies to analyze problems and design algorithms. The student is expected to:

(A) analyze practical examples using appropriate models of sets, functions, and relations;

(B) compare and contrast tautology, contradiction, and contingency as related to propositional equivalences;

(C) compare and contrast examples and use of counterexamples, contrapositions, and contradictions;

(D) describe the appropriate use and limitations of predicate logic;

(E) apply formal methods of symbolic propositional and predicate logic;

(F) use formal logic proofs and logical reasoning to solve problems;

(G) outline the basic structure of proofs, including direct, indirect, contradiction, induction, existence, and constructive proofs;

(H) compare and contrast the types of problems best satisfied by direct, indirect, contradiction, induction, existence, and constructive proofs;

(I) relate mathematical induction to recursion and recursively defined structures;

(J) compare and contrast weak, strong, and structural induction, including when each is most appropriately used and examples of each;

(K) compare and contrast dependent and independent events;

(L) use recurrence equations to analyze algorithms and other practical problems;

(M) use counting techniques to analyze algorithms and other practical problems;

(N) apply probability tools to solve problems; and

(O) define, compare, and contrast simple graphs, multigraphs, and directed and undirected graphs using definitions, properties, and examples, including special cases.

(5) Digital citizenship. The student explores and understands safety, legal, cultural, and societal issues relating to the use of technology and information. The student is expected to:

(A) model ethical acquisition and use of digital information;

(B) demonstrate proper digital etiquette, responsible use of software, and knowledge of acceptable use policies; and

(C) investigate how the concepts of discrete mathematics are related to relevant problems and significant questions.

(6) Technology operations and concepts. The student understands technology concepts, systems, and operations as they apply to computer science. The student is expected to:

(A) perform operations associated with sets, functions, and relations;

(B) apply basic counting principles, including cardinality and the pigeonhole principle;

(C) apply appropriate precedence when using logical operators;

(D) use appropriate strategies, including De Morgan's Laws, to identify propositional equivalences;

(E) identify and appropriately use predicates, existential and universal quantifiers, and valid arguments;

(F) identify possible applications of proofs, including evaluating algorithmic complexity;

(G) state and appropriately use the product and sum rules;

(H) compute permutations and combinations of a set;

(I) solve a variety of basic recurrence equations;

(J) apply the binomial theorem to independent events;

(K) apply Bayes' theorem to dependent events;
§130.426. Game Programming and Design (One Credit).

(a) General requirements. Students shall be awarded one credit for successful completion of this course. Prerequisite: Algebra I. This course is recommended for students in Grades 9-12.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Science, Technology, Engineering, and Mathematics (STEM) Career Cluster focuses on planning, managing, and providing scientific research and professional and technical services, including laboratory and testing services, and research and development services.

(3) Game Programming and Design will foster student creativity and innovation by presenting students with opportunities to design, implement, and present meaningful programs through a variety of media. Students will collaborate with one another, their instructor, and various electronic communities to solve gaming problems. Through data analysis, students will include the identification of task requirements, plan search strategies, and use programming concepts to access, analyze, and evaluate information needed to design games. By acquiring programming knowledge and skills that support the work of individuals and groups in solving problems, students will select the technology appropriate for the task, synthesize knowledge, create solutions, and evaluate the results. Students will learn digital citizenship by researching current laws and regulations and by practicing integrity and respect. Students will create a computer game that is presented to an evaluation panel. The six strands include creativity and innovation; communication and collaboration; research and information fluency; critical thinking; problem solving, and decision making; digital citizenship; and technology operations and concepts.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) Creativity and innovation. The student develops products and generates new understanding by extending existing knowledge. The student is expected to:

(A) understand the basic game design elements, including conceptual ideas, storyline, visualization, storyboard, game effects, sound elements, game play, game controls, and player tutorial;

(B) create a design concept document;

(C) create a storyboard;

(D) demonstrate an understanding of the fundamentals of game art, including the look and feel, graphics coordinate system, basics of color, and color palettes;

(E) use bitmap graphics images, including designing, creating, reading, and manipulating images;

(F) create backgrounds, including solid, image, and tiled backgrounds;

(G) write programs creating images using geometric shapes;

(H) create games using sprites by evaluating the role of sprites, creating sprites, and managing sprites;

(I) create programs using sprite sheets;

(J) demonstrate an understanding of image rendering, including transparency, refresh rate, hardware acceleration, and animation;

(K) find, create, and edit game audio sound effects and music; and

(L) implement game sound mechanics, including playing, pausing, and looping.

(2) Communication and collaboration. The student communicates and collaborates with peers to contribute to his or her own learning and the learning of others. The student is expected to:

(A) design and implement procedures to set timelines for, track the progress of, and evaluate a game product;

(B) seek and respond to input from peers and professionals in evaluating a game project;

(C) demonstrate knowledge and appropriate use of operating systems, program development tools, and networking resources;

(D) use network resources to acquire, organize, maintain, and evaluate information;

(E) collaborate to research the business of games, including the roles of developer, marketing, publisher, and retail sales, and

(F) demonstrate an understanding of and evaluate online technology, including online interaction and massive multiplayer games.

(3) Research and information fluency. The student locates, analyzes, processes, and organizes data. The student is expected to:

(A) play board games to research and collect game play data;

(B) evaluate, analyze, and document game styles and playability; and

(C) research the dramatic elements in games, including kinds of fun, player types, and nonlinear storytelling.

(4) Critical thinking, problem solving, and decision making. The student uses appropriate strategies to analyze problems and design algorithms. The student is expected to:

(A) demonstrate an understanding of the game design process, including generating ideas, brainstorming, and paper prototyping;

(B) write programs using variables of different data types;

(C) evaluate game rules and instructions;

(D) demonstrate an understanding of the user experience by comparing rules and game-play patterns;

(E) write game rules and instructions;
**PROPOSED RULES  March 6, 2020  45 TexReg 1579**

(F) develop game software;
(G) write computer game code, resolve game defects, and revise existing game code; and
(H) test a finished game product by implementing sound testing techniques.

(5) Digital citizenship. The student explores and understands safety, legal, cultural, and societal issues relating to the use of technology and information. The student is expected to:

(A) explore intellectual property, privacy, sharing of information, copyright laws, and software licensing agreements;
(B) model ethical acquisition and use of digital information;
(C) demonstrate proper digital etiquette when using networks, responsible use of software, and knowledge of acceptable use policies;
(D) model respect of intellectual property, including manipulating graphics, morphing graphics, editing graphics, and editing sound; and
(E) discuss and evaluate the social issues surrounding gaming; and
(F) evaluate the cultural aspects of game design fundamentals, including rationale for games and types of games.

(6) Technology operations and concepts. The student understands technology concepts, systems, and operations as they apply to game programming. The student is expected to:

(A) identify basic game components, including the game engine, game play subsystems, data structures, models, and interfaces;
(B) generate random numbers in a program;
(C) create a program implementing conditional statements;
(D) develop an appropriate data model;
(E) demonstrate an understanding of and apply object-oriented game programming;
(F) demonstrate an understanding of game programming essentials, including event-driven programming, communicating with messages, and device management;
(G) demonstrate an understanding of the role of game events, the animation loop, and game timing;
(H) demonstrate an understanding of the role of game engines;
(I) demonstrate an understanding of video display flicker and double buffering;
(J) apply basic game screen design and layout, including visual controls, user interfaces, menus, and options;
(K) use game control design to understand, access, and control input devices, including keyboard, mouse, and joystick;
(L) demonstrate an understanding of and apply game animation, including the principles of animation and frame-based animation;
(M) demonstrate an understanding of decision making and types of decisions;
(N) demonstrate an understanding of game events, including listeners, triggers, and timed events;
(O) demonstrate an understanding of and implement collision detection, including bounding boxes and sprite collisions;
(P) implement a tile-based game, including loading tile maps, drawing tile maps, rendering a tile map, and layering sprites;
(Q) demonstrate an understanding of artificial intelligence and develop and implement artificial intelligence;
(R) demonstrate an understanding of game balance and tuning; and
(S) demonstrate an understanding of player progression, including leveling, linear progression, and maintaining high score data.

§130.427. Mobile Application Development (One Credit).

(a) General requirements. Students shall be awarded one credit for successful completion of this course. Prerequisite: Algebra I. This course is recommended for students in Grades 9-12.

(b) Introduction.

1. Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

2. The Science, Technology, Engineering, and Mathematics (STEM) Career Cluster focuses on planning, managing, and providing scientific research and professional and technical services, including laboratory and testing services, and research and development services.

3. Mobile Application Development will foster students' creativity and innovation by presenting opportunities to design, implement, and deliver meaningful projects using mobile computing devices. Students will collaborate with one another, their instructor, and various electronic communities to solve problems presented throughout the course. Through data analysis, students will identify task requirements, plan search strategies, and use software development concepts to access, analyze, and evaluate information needed to program mobile devices. By using software design knowledge and skills that support the work of individuals and groups in solving problems, students will select the technology appropriate for the task, synthesize knowledge, create solutions, and evaluate the results. Students will learn digital citizenship by researching current laws and regulations and by practicing integrity and respect. Students will gain an understanding of the principles of mobile application development through the study of development platforms, programming languages, and software design standards. The six strands include creativity and innovation; communication and collaboration; research and information fluency; critical thinking; problem solving, and decision making; digital citizenship; and technology operations and concepts.

4. Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

5. Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

1. Creativity and innovation. The student develops products and generates new understanding by extending existing knowledge. The student is expected to:
(A) create effective user interfaces appropriate for a specified mobile device that is best suited for an identified purpose; 

(B) create effective user interfaces for browser-based, native, and hybrid mobile applications; 

(C) create mobile application components appropriate for identified needs; 

(D) create browser-based applications for mobile devices; 

(E) create native applications that can reside on specified mobile devices; and 

(F) create mobile applications that combine native and hybrid components. 

(2) Communication and collaboration. The student communicates and collaborates with peers to contribute to his or her own learning and the learning of others. The student is expected to: 

(A) demonstrate an understanding of and discuss how teams function; 

(B) use teamwork to solve problems; 

(C) describe the development workflow of mobile applications; 

(D) use time-management techniques to develop and maintain work schedules, meet deadlines, and establish mobile application project criteria; 

(E) describe a problem solution; and 

(F) document and share problem solutions through various media. 

(3) Research and information fluency. The student locates, analyzes, processes, and organizes data. The student is expected to: 

(A) analyze, identify, and describe mobile application project stakeholders and their perspectives; 

(B) collect and analyze available data to identify mobile application project requirements; 

(C) analyze, identify, and describe input, output, and processing requirements; and 

(D) analyze, identify, and define hardware and software specifications. 

(4) Critical thinking, problem solving, and decision making. The student uses appropriate strategies to analyze problems and design algorithms. The student is expected to: 

(A) compare and contrast design decisions based on the hardware considerations of a mobile device; 

(B) compare and contrast available mobile technologies, including platforms and their operating systems; 

(C) compare and contrast available development approaches, including application to specific technologies and platforms; 

(D) determine the most appropriate solution for the development of a given mobile application, including browser-based, native, and hybrid approaches; 

(E) compare and contrast available programming languages and how their use might be applied to specific technologies and platforms; 

(F) identify and justify the selection of an appropriate programming language, including available resources and required interfaces; 

(G) select an appropriate program development environment; 

(H) identify and use available libraries; 

(I) evaluate and justify the selection of appropriate options and components; 

(J) compare and contrast available networks and their implications for mobile application development; and 

(K) compare and contrast design strategies related to mobile network and device security. 

(5) Digital citizenship. The student explores and understands safety, legal, cultural, and societal issues relating to the use of technology and information. The student is expected to: 

(A) discuss copyright laws and issues; 

(B) model ethical acquisition and use of digital information; 

(C) cite sources using established methods; 

(D) demonstrate proper digital etiquette and knowledge of acceptable use policies; 

(E) investigate mobile device security measures such as passwords, virus detection, and virus prevention; 

(F) describe potential risks and benefits associated with the use of a mobile application; 

(G) identify current and emerging technologies related to mobile applications; and 

(H) evaluate technologies and assess their applicability to current mobile applications. 

(6) Technology operations and concepts. The student understands technology concepts, systems, and operations as they apply to computer science. The student is expected to: 

(A) demonstrate an understanding of the difference between desktop and mobile applications; 

(B) demonstrate an understanding of hardware and software structures and requirements in the design of mobile applications; 

(C) recognize multiple platforms and demonstrate an understanding of their associated requirements; 

(D) recognize various program development environments; 

(E) demonstrate an understanding of event-based programming and its appropriate use; 

(F) describe how memory management affects mobile application design; 

(G) demonstrate an understanding of how low bandwidth and the mobility of a device affect the design of mobile applications; 

(H) identify applications that are best suited for mobile devices; 

(I) demonstrate an understanding of the use of libraries when designing mobile applications;
§130.428. Foundations of Cybersecurity (One Credit).

(a) General requirements. Students shall be awarded one credit for successful completion of this course. This course is recommended for students in Grades 9-12.

(b) Introduction.

1. Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

2. The Science, Technology, Engineering, and Mathematics (STEM) Career Cluster focuses on planning, managing, and providing scientific research and professional and technical services, including laboratory and testing services, and research and development services.

3. Cybersecurity is an evolving discipline concerned with safeguarding computers, networks, programs, and data from unauthorized access. As a field, it has gained prominence with the emergence of a globally-connected society. As computing has become more sophisticated, so too have the abilities of malicious agents looking to penetrate networks and seize private information. By evaluating prior incidents, cybersecurity professionals have the ability to craft appropriate responses to minimize disruptions to corporations, governments, and individuals.

4. In the Foundations of Cybersecurity course, students will develop the knowledge and skills needed to explore fundamental concepts related to the ethics, laws, and operations of cybersecurity. Students will examine trends and operations of cyberattacks, threats, and vulnerabilities. Students will review and explore security policies designed to mitigate risks. The skills obtained in this course prepare students for additional study in cybersecurity. A variety of courses are available to students interested in this field. Foundations of Cybersecurity may serve as an introductory course in this field of study.

5. Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

6. Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

1. Employability skills. The student demonstrates necessary skills for career development and successful completion of course outcomes. The student is expected to:

   (A) identify and demonstrate employable work behaviors such as regular attendance, punctuality, maintenance of a professional work environment, and effective written and verbal communication;

   (B) identify and demonstrate personal qualities such as authenticity, resilience, initiative, and a willingness to learn new knowledge and skills;

   (C) solve problems and think critically;

   (D) demonstrate leadership skills and function effectively as a team member; and

2. Employability skills. The student identifies various employment opportunities and requirements in the cybersecurity field. The student is expected to:

   (A) identify job and internship opportunities as well as accompanying duties and tasks;

   (B) research careers in cybersecurity and information assurance along with the education and job skills required for obtaining a job in both the public and private sectors;

   (C) identify and discuss certifications for cybersecurity-related careers; and

   (D) research and develop resumes, digital portfolios, or professional profiles in the cybersecurity field.

3. Ethics and laws. The student understands ethical and current legal standards, rights and restrictions governing technology, technology systems, digital media, and the use of social media. The student is expected to:

   (A) demonstrate and advocate for ethical and legal behaviors both online and offline among peers, family, community, and employers;

   (B) research local, state, national, and international cyber law such as the PATRIOT Act of 2001, General Data Protection Regulation, and Digital Millennium Copyright Act;

   (C) research historic cases or events regarding cyber;

   (D) demonstrate an understanding of ethical and legal behavior when presented with various scenarios related to cyber activities;

   (E) define and identify techniques such as hacking, phishing, social engineering, online piracy, spoofing, and data vandalism; and

   (F) identify and use appropriate methods for citing sources.

4. Ethics and laws. The student identifies the consequences of ethical versus malicious hacking. The student is expected to:

   (A) identify motivations for hacking;

   (B) identify and describe the impact of cyberattacks on the global community, society, and individuals;

   (C) distinguish between a cyber attacker and a cyber defender;

   (D) differentiate types of hackers such as black hats, white hats, and gray hats;

   (E) determine possible outcomes and legal ramifications of ethical versus malicious hacking practices; and

   (F) debate the varying perspectives of ethical versus malicious hacking.

5. Ethics and laws. The student identifies and defines cyberterrorism and counterterrorism. The student is expected to:

   (A) define cyberterrorism, state-sponsored cyberterrorism, and hacktivism;

   (B) compare and contrast physical terrorism and cyberterrorism, including domestic and foreign actors;
(C) define and explain intelligence gathering and counterterrorism;
(D) identify the role of cyber defenders in protecting national interests and corporations;
(E) identify the role of cyber defense in society and the global economy; and
(F) explain the importance of protecting public infrastructures such as electrical power grids, water systems, pipelines, transportation, and nuclear plants.

(6) Digital citizenship. The student understands and demonstrates the social responsibility of end users regarding significant issues related to digital technology, digital hygiene, and cyberbullying. The student is expected to:
(A) identify and understand the nature and value of privacy;
(B) analyze the positive and negative implications of a digital footprint and the maintenance and monitoring of an online presence;
(C) discuss the role and impact of technology on privacy;
(D) identify the signs, emotional effects, and legal consequences of cyberbullying and cyberstalking; and
(E) identify and discuss effective ways to prevent, deter, and report cyberbullying.

(7) Cybersecurity skills. The student understands basic cybersecurity concepts and definitions. The student is expected to:
(A) define information security and cyber defense;
(B) identify basic risk management and risk assessment principles related to cybersecurity threats and vulnerabilities;
(C) explain the fundamental concepts of confidentiality, integrity, availability, authentication, and authorization;
(D) describe the inverse relationship between privacy and security;
(E) identify and analyze cybersecurity breaches and incident responses;
(F) identify and analyze security concerns in areas such as physical, network, cloud, and web;
(G) define and discuss challenges faced by cybersecurity professionals;
(H) identify common risks, alerts, and warning signs of compromised computer and network systems;
(I) understand and explore the vulnerability of network-connected devices; and
(J) use appropriate cybersecurity terminology.

(8) Cybersecurity skills. The student understands and explains various types of malicious software (malware). The student is expected to:
(A) define malware, including spyware, ransomware, viruses, and rootkits;
(B) identify the transmission and function of malware such as Trojans, worms, and viruses;
(C) discuss the impact malware has had on the cybersecurity landscape;
(D) explain the role of reverse engineering for detecting malware and viruses;
(E) compare free and commercial antivirus software alternatives; and
(F) compare free and commercial anti-malware software alternatives.

(9) Cybersecurity skills. The student understands and demonstrates knowledge of techniques and strategies to prevent a system from being compromised. The student is expected to:
(A) define system hardening;
(B) demonstrate basic use of system administration privileges;
(C) explain the importance of patching operating systems;
(D) explain the importance of software updates;
(E) describe standard practices to configure system services;
(F) explain the importance of backup files; and
(G) research and understand standard practices for securing computers, networks, and operating systems.

(10) Cybersecurity skills. The student understands basic network operations. The student is expected to:
(A) identify basic network addressing and devices, including switches and routers;
(B) analyze incoming and outgoing rules for traffic passing through a firewall;
(C) identify well known ports by number and service provided, including port 22 (ssh), port 80 (http), and port 443 (https);
(D) identify commonly exploited ports and services, including ports 20 and 21 (ftp) and port 23 (telnet); and
(E) identify common tools for monitoring ports and network traffic.

(11) Cybersecurity skills. The student identifies standard practices of system administration. The student is expected to:
(A) define what constitutes a secure password;
(B) create a secure password policy, including length, complexity, account lockout, and rotation;
(C) identify methods of password cracking such as brute force and dictionary attacks; and
(D) examine and configure security options to allow and restrict access based on user roles.

(12) Cybersecurity skills. The student demonstrates necessary steps to maintain user access on the computer system. The student is expected to:
(A) identify the different types of user accounts and groups on an operating system;
(B) explain the fundamental concepts and standard practices related to access control, including authentication, authorization, and accounting.
(C) compare methods for single- and dual-factor authentication such as passwords, biometrics, personal identification numbers (PINs), and security tokens;
(D) define and explain the purpose of an air-gapped computer; and
(E) explain how hashes and checksums may be used to validate the integrity of transferred data.

(13) Cybersecurity skills. The student explores the field of digital forensics. The student is expected to:
(A) explain the importance of digital forensics to law enforcement, government agencies, and corporations;
(B) identify the role of chain of custody in digital forensics;
(C) explain the four steps of the forensics process, including collection, examination, analysis, and reporting;
(D) identify when a digital forensics investigation is necessary;
(E) identify information that can be recovered from digital forensics investigations such as metadata and event logs; and
(F) analyze the purpose of event logs and identify suspicious activity.

(14) Cybersecurity skills. The student explores the operations of cryptography. The student is expected to:
(A) explain the purpose of cryptography and encrypting data;
(B) research historical uses of cryptography; and
(C) review simple cryptography methods such as shift cipher and substitution cipher.

(15) Risk assessment. The student understands information security vulnerabilities, threats, and computer attacks. The student is expected to:
(A) define and describe vulnerability, payload, exploit, port scanning, and packet sniffing as they relate to hacking;
(B) define and describe cyberattacks, including man-in-the-middle, distributed denial of service, and spoofing;
(C) explain how computer vulnerabilities leave systems open to cyberattacks;
(D) identify threats to systems such as back-door attacks and insider threats;
(E) differentiate types of social engineering attacks such as phishing, shoulder surfing, hoaxes, and dumpster diving;
(F) explain how users are the most common vehicle for compromising a system at the application level; and
(G) identify various types of application-specific attacks.

(16) Risk assessment. The student understands, identifies, and explains the strategies and techniques of both ethical and malicious hackers. The student is expected to:
(A) identify internal and external threats to computer systems;
(B) identify the capabilities of vulnerability assessment tools, including open source tools; and
(C) explain the concept of penetration testing, tools, and techniques.

(17) Risk assessment. The student evaluates the risks of wireless networks. The student is expected to:
(A) compare risks associated with connecting devices to public and private wireless networks;
(B) explain device vulnerabilities and security solutions on a wireless network;
(C) compare wireless encryption protocols;
(D) debate the broadcasting or hiding of a wireless service set identifier (SSID); and
(E) research and discuss wireless threats such as MAC spoofing and war driving.

(18) Risk assessment. The student analyzes threats to computer applications. The student is expected to:
(A) define application security;
(B) identify methods of application security such as secure development practices;
(C) discuss methods of online spoofing such as web links in email, instant messaging, social media, and other online communication with malicious links;
(D) explain the purpose and function of vulnerability scanners;
(E) explain how coding errors may create system vulnerabilities; and
(F) analyze the purpose of event logs and identify suspicious activity.

(19) Risk assessment. The student understands the implications of sharing information and access with others. The student is expected to:
(A) describe the impact of granting applications unnecessary permissions;
(B) describe the risks of granting third parties access to personal and proprietary data on social media and systems; and
(C) describe the risks involved with accepting Terms of Service (ToS) or End User License Agreements (EULA) without a basic understanding of the terms or agreements.

§130.429. Cybersecurity Capstone (One Credit).
(a) General requirements. Students shall be awarded one credit for successful completion of this course. This course is recommended for students in Grades 11 and 12. Recommended prerequisite: Foundations of Cybersecurity.

(b) Introduction.
(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging foundations.

(2) The Science, Technology, Engineering, and Mathematics (STEM) Career Cluster focuses on planning, managing, and providing scientific research and professional and technical services, including laboratory and testing services, and research and development services.

(3) Cybersecurity is an evolving discipline concerned with safeguarding computers, networks, programs, and data from unautho-
rized access. As a field, it has gained prominence with the emergence of a globally-connected society. As computing has become more sophisticated, so too have the abilities of malicious agents looking to penetrate networks and seize private information. By evaluating prior incidents, cybersecurity professionals have the ability to craft appropriate responses to minimize disruptions to corporations, governments, and individuals.

(4) In the Cybersecurity Capstone course, students will develop the knowledge and skills needed to explore advanced concepts related to the ethics, laws, and operations of cybersecurity. Students will examine trends and operations of cyberattacks, threats, and vulnerabilities. Students will develop security policies to mitigate risks. The skills obtained in this course prepare students for additional study toward industry certification. A variety of courses are available to students interested in the cybersecurity field. Cybersecurity Capstone may serve as a culminating course in this field of study.

(5) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(6) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) Employability skills. The student demonstrates necessary skills for career development and successful completion of course outcomes. The student is expected to:

   (A) identify and demonstrate employable work behaviors such as regular attendance, punctuality, maintenance of a professional work environment, and effective written and verbal communication;
   (B) identify and demonstrate positive personal qualities such as authenticity, resilience, initiative, and a willingness to learn new knowledge and skills;
   (C) solve problems and think critically;
   (D) demonstrate leadership skills and function effectively as a team member; and
   (E) demonstrate an understanding of ethical and legal responsibilities in relation to the field of cybersecurity.

(2) Employability skills. The student identifies various employment opportunities in the cybersecurity field. The student is expected to:

   (A) develop a personal career plan along with the education, job skills, and experience necessary to achieve career goals;
   (B) develop a resume or a portfolio appropriate to a chosen career plan; and
   (C) illustrate interview skills for successful job placement.

(3) Ethics and laws. The student evaluates ethical and current legal standards, rights and restrictions governing technology, technology systems, digital media and information technology, and the use of social media in the context of today's society. The student is expected to:

   (A) analyze and apply to a scenario local, state, national, and international cyber law such as David's Law and Digital Millennium Copyright Act; and
   (B) evaluate historic cases or events regarding cyber; and
   (C) explore compliance requirements such as Section 508 of the Rehabilitation Act of 1973, Family Educational Rights and Privacy Act of 1974 (FERPA), Health Insurance Portability and Accountability Act of 1996 (HIPAA), and Gramm-Leach-Bliley Act (GLBA).

(4) Digital citizenship. The student understands and demonstrates the social responsibility of end users regarding significant issues relating to digital technology, safety, digital hygiene, and cyberbullying. The student is expected to:

   (A) debate the relationship between privacy and security; and
   (B) identify ethical or unethical behavior when presented with various scenarios related to cyber activities.

(5) Cybersecurity skills. The student explains the importance and process of penetration testing. The student is expected to:

   (A) define the phases of penetration testing, including plan, discover, attack, and report;
   (B) develop a plan to gain authorization for penetration testing;
   (C) identify commonly used vulnerability scanning tools such as port scanning, packet sniffing, and password crackers;
   (D) develop a list of exploits based on results of scanning tool reports; and
   (E) prioritize a list of mitigations based on results of scanning tool reports.

(6) Cybersecurity skills. The student understands common cryptographic methods. The student is expected to:

   (A) evaluate symmetric and asymmetric algorithms such as substitution cipher, Advanced Encryption Standard (AES), Diffie-Hellman, and Rivest-Shamir-Adleman (RSA);
   (B) explain the purpose of hashing algorithms, including blockchain;
   (C) explain the function of password salting;
   (D) explain and create a digital signature; and
   (E) explain steganography.

(7) Cybersecurity skills. The student understands the concept of cyber defense. The student is expected to:

   (A) explain the purpose of establishing system baselines;
   (B) evaluate the role of physical security;
   (C) evaluate the functions of network security devices such as firewalls, intrusion detection systems (IDS), intrusion prevention systems (IPS), and intrusion detection prevention systems (IDPS);
   (D) analyze log files for anomalies; and
   (E) develop a plan demonstrating the concept of defense in depth.

(8) Cybersecurity skills. The student demonstrates an understanding of secure network design. The student is expected to:

   (A) explain the benefits of network segmentation, including sandboxes, air gaps, and virtual local area networks (VLAN);
(B) investigate the role of software-managed networks, including virtualization;

(C) discuss the role of honeypots and honeynets in networks; and

(D) create an incoming and outgoing network policy for a firewall.

(9) Cybersecurity skills. The student integrates principles of digital forensics. The student is expected to:

(A) identify cyberattacks by their signatures;

(B) explain proper data acquisition;

(C) examine evidence from devices for suspicious activities; and

(D) research current cybercrime cases involving digital forensics.

(10) Cybersecurity skills. The student explores emerging technology. The student is expected to:

(A) describe the integration of artificial intelligence and machine learning in cybersecurity;

(B) investigate impacts made by predictive analytics on cybersecurity; and

(C) research other emerging trends such as augmented reality and quantum computing.

(11) Cybersecurity skills. The student uses various operating system environments. The student is expected to:

(A) issue commands via the command line interface (CLI) such as ls, cd, pwd, cp, mv, chmod, ps, sudo, and passwd;

(B) describe the file system structure for multiple operating systems;

(C) manipulate and edit files within the CLI; and

(D) determine network status using the CLI with commands such as ping, ifconfig/ipconfig, traceroute/tracert, and netstat.

(12) Cybersecurity skills. The student clearly and effectively communicates technical information. The student is expected to:

(A) collaborate with others to create a technical report;

(B) create, review, and edit a report summarizing technical findings; and

(C) present technical information to a non-technical audience.

(13) Risk assessment. The student analyzes various types of threats, attacks, and vulnerabilities. The student is expected to:

(A) differentiate types of attacks, including operating systems, software, hardware, network, physical, social engineering, and cryptographic;

(B) explain blended threats such as combinations of software, hardware, network, physical, social engineering, and cryptographic;

(C) discuss risk response techniques, including accept, transfer, avoid, and mitigate;

(D) develop a plan of preventative measures to address cyberattacks;

(E) describe common web vulnerabilities such as cross-site scripting, buffer overflow, injection, spoofing, and denial of service;

(F) describe common data destruction and media sanitation practices such as wiping, shredding, and degaussing; and

(G) develop an incident response plan for a given scenario or recent attack.

(14) Risk assessment. The student understands risk management processes and concepts. The student is expected to:

(A) describe various access control methods such as mandatory access control (MAC), role-based access control (RBAC), and discretionary access control (DAC);

(B) develop and defend a plan for multi-factor access control using components such as biometric verification systems, key cards, tokens, and passwords; and

(C) review a disaster recovery plan (DRP) that includes backups, redundancies, system dependencies, and alternate sites.

(15) Risk assessment. The student investigates the role and effectiveness of environmental controls. The student is expected to:

(A) explain commonly used physical security controls, including lock types, fences, barricades, security doors, and mantraps; and

(B) describe the role of embedded systems such as fire suppression; heating, ventilation, and air conditioning (HVAC) systems; security alarms; and video monitoring.

§130.430. Advanced Placement (AP) Computer Science A (Two Credits).

(a) General requirements. Students shall be awarded two credits for successful completion of this course. Recommended prerequisites: Algebra I or a student should be comfortable with functions and the concepts found in the uses of functional notation such as f(x) = x + 2 and f(x) = g(h(x)).

(b) Content requirements. Content requirements for Advanced Placement (AP) Computer Science A are prescribed in the College Board Publication Advanced Placement Course Description: Computer Science A, published by The College Board.

§130.431. Advanced Placement (AP) Computer Science Principles (One Credit).

(a) General requirements. Students shall be awarded one credit for successful completion of this course. Recommended prerequisite: Algebra I.

(b) Content requirements. Content requirements for Advanced Placement (AP) Computer Science Principles are prescribed in the College Board Publication Advanced Placement® Curriculum Framework: AP Computer Science Principles, published by The College Board.

§130.432. International Baccalaureate (IB) Computer Science Standard Level (Two Credits)

(a) General requirements. Students shall be awarded two credits for successful completion of this course. Recommended prerequisites: Computer Science I, Algebra II.

(b) Content requirements. Content requirements for IB Computer Science Standard Level are prescribed by the International Baccalaureate Organization. Subject guides may be obtained from International Baccalaureate of North America.
§130.433. International Baccalaureate (IB) Computer Science Higher Level (Two Credits).

(a) General requirements. Students shall be awarded two credits for successful completion of this course. Recommended prerequisites: Computer Science I, Algebra II.

(b) Content requirements. Content requirements for IB Computer Science Higher Level are prescribed by the International Baccalaureate Organization. Subject guides may be obtained from International Baccalaureate of North America.

§130.434. International Baccalaureate (IB) Information Technology in a Global Society Standard Level (Two Credits).

(a) General requirements. Students shall be awarded two credits for successful completion of this course. Recommended prerequisites: Computer Science I, Algebra II.

(b) Content requirements. Content requirements for IB Information Technology in a Global Society Standard Level are prescribed by the International Baccalaureate Organization. Subject guides may be obtained from International Baccalaureate of North America.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 24, 2020.

TRD-202000821
Cristina De La Fuente-Valadez
Director, Rulemaking
Texas Education Agency
Earliest possible date of adoption: April 5, 2020
For further information, please call: (512) 475-1497

SUBCHAPTER Q. ENERGY

19 TAC §§130.485 - 130.491

STATUTORY AUTHORITY. The new sections are proposed under Texas Education Code (TEC), §§7.102(c)(4), which requires the State Board of Education (SBOE) to establish curriculum and graduation requirements: TEC, §28.002(a), which identifies the subjects of the required curriculum; TEC, §28.002(c), which requires the SBOE to by rule identify the essential knowledge and skills of each subject in the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials and addressed on the state assessment instruments; and TEC, §28.025(a), which requires the SBOE to by rule determine the curriculum requirements for the foundation high school graduation program that are consistent with the required curriculum under the TEC, §28.002.

CROSS REFERENCE TO STATUTE. The new sections implement Texas Education Code, §§7.102(c)(4); 28.002(a) and (c); and 28.025(a).

§130.485. Oil and Gas Production I (One Credit).

(a) General requirements. This course is recommended for students in Grades 9-12. Students shall be awarded one credit for successful completion of this course.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Energy Career Cluster focuses on Texas's diverse economic landscape, geography and natural resources, including renewable energy potential, transportation system, labor force, and leadership in environmental research.

(3) In Oil and Gas Production I, students will identify specific career opportunities and skills, abilities, tools, certification, and safety measures associated with each career. Students will also understand components, systems, equipment, and production and safety regulations associated with oil and gas wells. To prepare for careers in oil and gas production, students must attain academic skills and knowledge, acquire technical knowledge and skills related to oil and gas production and the workplace, and develop knowledge and skills regarding career opportunities, entry requirements, and industry expectations. To prepare for success, students need opportunities to learn, reinforce, apply, and transfer their knowledge and skills and technologies in a variety of settings.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) identify career development, education, and entrepreneurship opportunities in the oil and gas production field;

(B) apply competencies related to resources, information, interpersonal skills, problem solving, critical thinking, and systems of operation;

(C) demonstrate knowledge of personal and occupational safety, environmental regulations, and first-aid policy in the workplace;

(D) analyze employers' expectations such as appropriate work habits, ethical conduct, legal responsibilities, and good citizenship skills; and

(E) demonstrate leadership skills to accomplish organizational goals and objectives.

(2) The student understands the history of and process for drilling a well. The student is expected to:

(A) describe the history of drilling for petroleum in the United States and abroad;
(B) describe and appraise routine drilling operations, offshore drilling, and new drilling technologies;

(C) describe the tools and techniques for directional drilling;

(D) examine the differences between fishing, retrieving, and repairing pipe;

(E) describe the methods for completing a well in order for production to begin;

(F) assess fluid pressure;

(G) determine how the flow is initiated in a new well;

(H) differentiate between major components of a well and discuss the purpose, design, and operation of each component;

(I) describe activities associated with completing a well;

(J) describe the well completion processes and equipment;

(K) summarize the instruments and techniques used when logging and testing during the drilling and completion of a well;

(L) list the factors that are analyzed when studying a poorly producing well; and

(M) identify the responsibilities, characteristics, abilities, and work behaviors of personnel that are involved in well service.

(3) The student discusses and identifies components, systems, equipment, production, and safety regulations associated with oil and gas wells. The student is expected to:

(A) identify the major systems and equipment used in the production of oil and gas;

(B) identify and describe the wellhead equipment that controls fluid flow;

(C) trace the process flow through the oil and gas production systems and equipment;

(D) discuss the purpose of the wellhead and identify the major components;

(E) describe the purpose, design, and operation of each wellhead component;

(F) compare and contrast the major differences in wellhead construction;

(G) compare and contrast onshore and offshore facilities;

(H) compare and contrast oil and gas regions within the United States;

(I) describe the safety, health, and environmental concerns associated with working around a wellhead;

(J) explain how the wellhead system affects other production systems tied to the wellhead;

(K) describe the activities associated with monitoring and regulating well flow;

(L) describe the wellhead maintenance activities performed by the production technician;

(M) operate and troubleshoot a wellhead using a computer simulator, pilot plant, or tabletop unit; and

(N) identify the operating conditions that would warrant a manual or automatic shut-in of a well and steps involved in a manual shut-in of a well.

(4) The student discusses safety issues related to the oil and gas industry. The student is expected to:

(A) describe the safety, health, and environmental concerns associated with drilling, production, and maintenance; and

(B) research safety standards in the petroleum industry such as the Bureau of Safety and Environmental Enforcement (BSEE), United States Coast Guard (USCG), American Petroleum Institute (API), Department of Transportation (DOT), Occupational Safety and Health Administration (OSHA), Environmental Protection Agency (EPA), American Society for Testing and Materials (ASTM), American National Standards Institute (ANSI), and others.

§130.486. Oil and Gas Production II (One Credit).

(a) General requirements. This course is recommended for students in Grades 10-12. Prerequisite: Oil and Gas Production I. Students shall be awarded one credit for successful completion of this course.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Energy Career Cluster focuses on Texas's diverse economic landscape, geography and natural resources, including renewable energy potential, transportation system, labor force, and leadership in environmental research.

(3) In Oil and Gas Production II, students will gain knowledge of the specific requirements for entry into post-secondary education and employment in the petroleum industry; research and discuss petroleum economics; research and discuss the modes of transportation in the petroleum industry; research and discuss environmental, health, and safety concerns; research and discuss different energy sources; and prepare for industry certification. To prepare for careers in oil and gas production, students must attain academic skills and knowledge, acquire technical knowledge and skills related to oil and gas production and the workplace, and develop knowledge and skills regarding career opportunities, entry requirements, and industry expectations. To prepare for success, students need opportunities to learn, reinforce, apply, and transfer their knowledge and skills and technologies in a variety of settings.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) identify career development, education, and entrepreneurship opportunities in the oil and gas production field;

(B) identify careers in oil and gas production with required aptitudes in science, technology, engineering, mathematics, language arts, and/or social studies;
(C) apply technology skills to create an electronic portfolio of skills and abilities;

(D) apply competencies related to resources, information, interpersonal skills, problem solving, critical thinking, and systems of operation;

(E) demonstrate knowledge of personal and occupational safety, health, environmental regulations, and first-aid policy in the workplace; and

(F) analyze employers’ expectations, including appropriate work habits, ethical conduct, legal responsibilities, and good citizenship skills.

(2) The student researches and discusses the modes of transportation and environmental, health, and safety concerns. The student is expected to:

(A) describe evolution of transportation in the petroleum industry;

(B) research and access the various ground methods of transportation;

(C) survey health and safety policies, procedures, regulations, and practices as they relate to transportation in the petroleum industry;

(D) research and discuss petroleum economics;

(E) compare marketing, sales, and distribution of petroleum products;

(F) identify supply chain businesses that create new supplies of oil and gas;

(G) identify supply creation companies and how they operate;

(H) discuss the factors in investment decision making; and

(I) calculate rates of return to evaluate prospects.

(3) The student researches the different methods of disposing of oil and gas waste and methods of cleanup. The student is expected to:

(A) discuss the disposal methods of exploration and production wastes;

(B) identify cleanup methods for blowouts and spills; and

(C) identify refining processes that minimize environmental impact.

(4) The student researches and identifies the different energy sources and priorities for the oil and gas industry. The student is expected to:

(A) research the petroleum industry to identify renewable energy sources;

(B) present the challenges and priorities of the petroleum industry;

(C) research the critical technologies needed in the future; and

(D) research the nontechnical solutions to energy needs.

§130.487. Oil and Gas Production III (One Credit).

(a) General requirements. This course is recommended for students in Grades 11 and 12. Prerequisite: Oil and Gas Production II. Students shall be awarded one credit for successful completion of this course.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Energy Career Cluster focuses on Texas’s diverse economic landscape, geography and natural resources, including renewable energy potential, transportation system, labor force, and leadership in environmental research.

(3) In Oil and Gas Production III, students will gain knowledge of hydraulic and pneumatic systems and skill requirements to work in oil and gas and related industries. Students complete an advance core curriculum that includes hydraulic and pneumatic systems involved in oil and gas production. This program is designed to train students in all areas of down and mid-stream operation skills.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word “including” reference content that must be mastered, while those containing the phrase “such as” are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) identify career development, education, and entrepreneurship opportunities in the oil and gas production field;

(B) identify careers in oil and gas production with required aptitudes in science, technology, engineering, mathematics, language arts, and/or social studies;

(C) apply technology skills to create an electronic portfolio of skills and abilities;

(D) apply competencies related to resources, information, interpersonal skills, problem solving, critical thinking, and systems of operation;

(E) demonstrate knowledge of personal and occupational safety, health, environmental regulations, and first-aid policy in the workplace; and

(F) analyze employers’ expectations, including appropriate work habits, ethical conduct, legal responsibilities, and good citizenship skills.

(2) The student identifies the importance of oil field hydraulics and its contributions to the oil and gas industry. The student is expected to:

(A) identify companies that contributed to oil field hydraulics and fracturing and discuss those contributions;

(B) explain the history of hydraulic fracturing and its importance to the oil field industry and the process of producing wells in North America;

(C) describe the impact of hydraulics on energy in North America; and

(D) explain the impact on new oil and natural gas production in North America as it relates to technology.
(3) The student demonstrates an understanding of pneumatics and hydraulics and their significance and application in the petroleum engineering industry. The student is expected to:

(A) describe and define the basic functional components of the pneumatic system and the function of a pneumatic schematic;

(B) explain pneumatic pressure and identify its unit of measure during application procedures;

(C) explain the importance of a hydraulic system and identify the hydraulic system's five basic components (hydraulic pump, control valves, actuators, reservoir, and accumulators), including the hydraulic system's significance in the petroleum engineering industry; and

(D) define hydraulics and identify its unit of measure during application procedures.

(4) The student explains and demonstrates the six pneumatic safety rules and the importance of the rules in the petroleum industry. The student is expected to:

(A) explain the six pneumatic safety rules, including wearing safety glasses when building and operating pneumatics, keeping fingers clear of piston rods, never blowing compressed air at anyone, not turning the main air supply on until a circuit is connected, turning the air off if air is leaking from a joint, and turning the air off before altering a circuit;

(B) demonstrate safety precaution measures in pneumatics and discuss the importance of safety equipment during this process; and

(C) demonstrate and explain the importance of a pressure regulator in pneumatics, including the historical significance.

(5) The student demonstrates an understanding of basic cylinder circuits and pneumatic cylinder circuits and their significance and applications in the petroleum engineering industry. The student is expected to:

(A) explain the functions of the operation of a double acting pneumatic cylinder and each of its functions;

(B) describe the operation of five-way three-position directional control valves (DCV);

(C) describe the function of a pneumatic quick-connect fitting; and

(D) demonstrate how to safely connect the pneumatic circuit with a quick-connect fitting.

(6) The student understands the impact of a hydraulic schematic in oil field applications. The student is expected to:

(A) describe ISO symbols and appropriately use them to draw a hydraulic schematic; and

(B) create a hydraulic schematic.

(7) The student identifies the principles of hydraulic pressure and flow and discusses the basic hydraulic cylinder circuits and their application. The student is expected to:

(A) calculate the force output of an extending cylinder and the retraction force of a cylinder;

(B) explain the relevance of Pascal's Law to hydraulics;

(C) identify and discuss hydraulic motors and pumps; and

(D) identify hydraulic cylinders and their impact on single and double acting circuits.

§130.488. Oil and Gas Production IV (One Credit).

(a) General requirements. This course is recommended for students in Grades 11 and 12. Prerequisite: Oil and Gas Production III. Students shall be awarded one credit for successful completion of this course.

(b) Introduction.

(1) Career and technical education instruction provides content alignment with challenging academic standards and relevant knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Energy Career Cluster focuses on Texas’s diverse economic landscape, geography and natural resources, including renewable energy potential, transportation system, labor force, and leadership in environmental research.

(3) Oil and Gas Production IV is designed to extend training for future petroleum engineering technicians in all areas of down and mid-stream operations. Students complete an intense core curriculum in areas that include hydrocarbon safety, drilling, petroleum geology, oil and gas exploration and production, reservoir operations, wellhead completions, petroleum data management operations and analysis, natural gas production, and economics. In conjunction with this course, students employ the latest computer software in engineering and petroleum, operations, data mining, and geological mapping.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word “including” reference content that must be mastered, while those containing the phrase “such as” are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) identify career development, education, and entrepreneurship opportunities in the oil and gas production field;

(B) identify careers in oil and gas production with required aptitudes in science, technology, engineering, mathematics, language arts, and/or social studies;

(C) apply technology skills to create an electronic portfolio of skills and abilities;

(D) apply competencies related to resources, information, interpersonal skills, problem solving, critical thinking, and systems of operation;

(E) demonstrate knowledge of personal and occupational safety, health, environmental regulations, and first-aid policy in the workplace; and

(F) analyze employers’ expectations, including appropriate work habits, ethical conduct, legal responsibilities, and good citizenship skills.

(2) The student explains the phases of well construction. The student is expected to:

(A) describe the function of the well completion phase and the different hole tests used in well completions;
Institute

(B) design the completion of the reservoir using technology such as computer designing software;

(C) describe the open hole completion and sand control completion processes; and

(D) describe conventional completions and their components and how they relate to production tubing.

(3) The student explains the concepts of safety in well completions and indicates tools and procedures for completing a drilled wellbore. The student is expected to:

(A) research health and safety standards for the workplace and environment such as Standards and Wireline Operations and Procedures and Occupational Safety and Health Administration (OSHA) and standards provided by professional organizations in the oil and gas industry such as the American Chemical Society, American Institute of Chemical Engineers, Center for the Advancement of Process Technology, Gulf Coast Process Technology Alliance, and American Petroleum Institute (API);

(B) identify well completion tools and equipment and their use during each well completion phase; and

(C) analyze the cost of safety during well completions.

(4) The student explains the concepts of hydraulic fracturing and its role during the well completion phase. The student is expected to:

(A) describe how the generic well design and drilling mud systems impact drilling;

(B) interpret ways in which generic platform wells, cuttings disposal routes, and drilling fluid design impact the generic well design; and

(C) evaluate the significance of reservoir formations.

(5) The student discusses the potential hazards and possible solutions of well and equipment testing. The student is expected to:

(A) evaluate potential hazards and formulate a safety plan that covers safety guidelines and equipment, including first-aid and safety uniforms;

(B) describe and accurately measure the flow of oil, gas, and water in real time;

(C) ensure precautions and measures are considered during the surface well testing; and

(D) discuss the importance of knowing the surrounding environment when well testing.

(6) The student researches the different types of coring and core analysis used in well completions and how they play an important role in well completion. The student is expected to:

(A) describe the role of coring and core analysis in well completions;

(B) identify the relationship between the factors such as core analysis and well logging that play an active role in well completions;

(C) explain well logging and its importance in formation evaluation;

(D) research different methods of formation testing by acquiring core samples;

(E) research drill stem testing;

(F) explain drill stem tests and their importance in measuring the flow of oil and gas in well completions; and

(G) evaluate the cost of completion operations for well completion.

§130.489. Introduction to Process Technology (One Credit).

(a) General requirements. This course is recommended for students in Grades 11 and 12. Students shall be awarded one credit for successful completion of this course.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Energy Career Cluster focuses on Texas’s diverse economic landscape, geography and natural resources, including renewable energy potential, production system, labor force, and leadership in environmental research.

(3) In Introduction to Process Technology, students will learn the social significance and workforce impact of process technology in industry and the opportunities available at various levels of education and training in industries using process technology.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word “including” reference content that must be mastered, while those containing the phrase “such as” are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) demonstrate skills related to health and safety in the workplace as specified by appropriate government regulations;

(B) demonstrate the standards required in the workplace such as interviewing skills, flexibility, willingness to learn new skills and acquire knowledge, self-discipline, self-worth, positive attitude, and integrity in a work situation;

(C) collaborate with others to solve problems;

(D) identify employers’ work expectations; and

(E) research, evaluate, and apply various time-management techniques to develop work schedules.

(2) The student understands common definitions, terminology, and the basic foundations related to process technology. The student is expected to:

(A) describe the types of industry utilizing process technology and identify fields related to process technology;

(B) identify and describe the career opportunities in process technology, pathways to career development, and certification requirements of industries utilizing process technology, including job responsibilities, typical work schedules, and career opportunities;

(C) demonstrate the use of content such as technical concepts and vocabulary when analyzing information and following directions.
(D) identify currently emerging issues in process technology; and

(E) identify principles of instruments and instrument technology used in industrial process technology.

(3) The student identifies and discusses types of industrial piping, valves, and basic process equipment. The student is expected to:

(A) discuss the basics of piping, valves, and equipment used in industry; and

(B) demonstrate the ability to read and interpret the various types of industrial drawings, diagrams, and data sheets related to industrial piping, valves, and equipment.

(4) The student identifies and discusses the types of industrial electrical equipment and instrumentation used in process technology. The student is expected to:

(A) demonstrate the ability to read and interpret the various types of industrial drawings, diagrams, charts, and data sheets related to industrial electrical equipment;

(B) interpret industry standard circuit schematics;

(C) identify areas where quality, reliability, and safety can be integrated into a product; and

(D) describe the principles of electricity as applied in industrial process technology.

(5) The student discusses safety issues related to industrial process technology. The student is expected to:

(A) describe the safety, health, and environmental concerns and requirements for industries using process technology along with the history that led to modern standards;

(B) analyze and execute safety guidelines as described in various manuals, instructions, and regulations;

(C) describe the implications of negligent or improper maintenance;

(D) discuss and demonstrate how precision measuring instruments are used in industrial process technology; and

(E) research agencies that govern safety in industrial process technology, including their authority and requirements.

(6) The student demonstrates understanding of basic industrial mathematics. The student is expected to:

(A) perform common computations required in industrial process technology using mastered calculator skills;

(B) determine when to convert between fractions, decimals, whole numbers, and percentages mentally, on paper, or with a calculator when required in industrial process technology;

(C) identify and quantify causes and effects of uncertainties in measured data;

(D) demonstrate how exponents, symbols, and the order of operations are used to solve real-world word problems commonly seen in process technology;

(E) determine appropriate formulas to compute cross sections, surface areas, and volumes of geometric figures such as circles, squares, and cylinders;

(F) estimate measurements and solve application problems involving industry drawings and data sheets using consistent units for all measurements and computation;

(G) describe and discuss how to use scientific notation and International System (SI) units to gather and record data with accuracy and precision;

(H) organize and evaluate data and make inferences from data, including the use of tables, charts, and graphs;

(I) determine a dimension of an object given a scaled drawing having no dimensions; and

(J) represent and solve problems involving proportional relationships, including conversions between measurement systems using multiplication by a given constant factor such as unit rate.

(7) The student applies concepts of critical thinking and problem solving. The student is expected to:

(A) analyze elements of a problem to develop innovative solutions;

(B) critically analyze information to determine value to the problem-solving task;

(C) analyze a variety of problem-solving strategies and critical-thinking skills; and

(D) conduct technical research to gather information necessary for decision making.

(8) The student applies comprehensive knowledge in a simulation environment to demonstrate the mastery of the concepts covered in this course. The student is expected to:

(A) represent or simulate a portion of a process system by generating an appropriate drawing, diagram, or data sheet;

(B) demonstrate how to achieve a specific goal with the use of a simple mockup of a process system;

(C) execute a simple mockup of a process system to achieve a specified goal;

(D) demonstrate appropriate safety equipment selection for use in a variety of assigned tasks;

(E) identify and apply mathematical operations to complete calculations and specified computations, including unit conversions for a simulated process system;

(F) explain how visual depictions, data readouts, and trends in a computer-based process simulator relate to actual valves, piping, equipment, electrical gear, and instrumentation in a process system; and

(G) develop critical-thinking skills using simulations to identify and solve problems associated with process technology.

(9) The student presents conclusions, research findings, and designs using a variety of media throughout the course. The student is expected to:

(A) discuss and critique the validity of conclusions supported by the data through various methods such as lab reports, labeled drawings, graphic organizers, journals, summaries, oral reports, and technology-based reports; and

(B) record, express, and manipulate relationships among data using graphs, charts, and equations.

§130.490. Foundations of Energy (One Credit).
(a) General requirements This course is recommended for students in Grades 9-12. Students shall be awarded one credit for successful completion of the course.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and success in current or emerging energy professions.

(2) The Energy Career Cluster focuses on Texas's diverse economic landscape, geography and natural resources, including renewable energy potential, transportation system, labor force, and leadership in environmental research.

(3) In Foundations of Energy, students will conduct laboratory and field investigations, use scientific practices during investigations, and make informed decisions using critical thinking and scientific problem solving. Various systems will be described in terms of energy. Students will study a variety of topics that include energy transformation, the law of conservation of energy, energy efficiency, interrelationships among energy resources and society, and sources and flow of energy through the production, transmission, processing, and use of energy. Students will apply these concepts and perform investigations and experiments at least 40% of the time using safe practices.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) evaluate the importance of dressing appropriately, speaking politely, and conducting oneself in a manner appropriate for the profession;

(B) cooperate, contribute, and collaborate as a member of a group in an effort to achieve a positive collective outcome;

(C) present written and oral communication in a clear, concise, and effective manner;

(D) demonstrate time-management skills by prioritizing tasks, following schedules, and performing goal-relevant activities in a way that produces efficient results;

(E) demonstrate punctuality, dependability, reliability, and responsibility in performing assigned tasks as directed;

(F) discuss and exhibit teamwork and leadership skills necessary for the workplace;

(G) define and demonstrate effective problem-solving skills; and

(H) apply computer-based skills and other technologies relevant to the energy industry.

(2) The student analyzes current and future career opportunities in the energy sector, including oil and gas exploration and production, refining and chemical processing, and renewable energy. The student is expected to:

(A) evaluate energy systems and identify careers within those systems;

(B) examine past market and employment trends in the energy sector;

(C) discuss current issues in energy production and predict future needs and employment opportunities in this field;

(D) identify career development, education, credentialing, and entrepreneurship opportunities in the energy sector; and

(E) apply competencies related to resources, information, and systems of operation in the energy sector.

(3) The student conducts laboratory and field investigations using safe, environmentally appropriate, and ethical practices. The student is expected to:

(A) demonstrate safe practices during laboratory and field investigations;

(B) use a wide variety of additional course apparatuses, equipment, techniques, and procedures as appropriate such as satellite imagery and other remote sensing data, Geographic Information Systems (GIS), Global Positioning System (GPS), scientific probes, microscopes, telescopes, modern video and image libraries, weather stations, fossil and rock kits, tectonic plate models, and planetary globes;

(C) engage in meaningful hands-on, minds-on conceptual activities in the areas of energy; and

(D) demonstrate an understanding of the use and conservation of resources and proper disposal or recycling of materials.

(4) The student uses critical thinking and problem solving to make informed decisions within and outside the classroom. The student is expected to:

(A) communicate and present valid conclusions from energy information extracted from various sources such as current events, news reports, published journal articles, and marketing materials;

(B) explain the impacts of energy discoveries by a variety of historical and contemporary scientists and entrepreneurs on current societal attitudes;

(C) compare advantages and disadvantages in the use of the various energy sources; and

(D) distinguish between scientific decision making (scientific methods) and ethical and social decisions that involve science (the application of scientific information).

(5) The student presents conclusions, research findings, and designs using a variety of media throughout the course. The student is expected to:

(A) develop written and oral presentation skills related to energy issues and solutions by researching and describing the history of energy production in Texas and contributions of scientists and entrepreneurs; and

(B) develop data retrieval and analysis skills related to energy production and use by researching information about energy sources, including renewable and non-renewable sources, and energy efficiency and how each source is used to produce electrical energy.

(6) The student examines and explains concepts and procedures related to energy. The student is expected to:
various transportation, work, production related to: economy; rock of Texas; student's career; expected natural resources; and enable energy evolution, and social sustainability; and identify three energy professionals for potential speaking invitations either in person or via the Internet; and

(A) identify general purposes for energy, including transportation, light, cooking, heating or cooling, entertainment, and cleaning;

(B) explain and demonstrate transformations among various energy forms, including potential, kinetic, chemical, mechanical, electrical, and light energy;

(C) analyze the role of gravity in transforming energy;

(D) investigate and calculate the relationship between work, potential energy, and kinetic energy;

(E) examine various types of energy transfer mechanisms, determine the original form of energy and what form that energy is being transformed into, and use examples to analyze and calculate the relationships among work, kinetic energy, and potential energy;

(F) describe and apply the law of conservation of energy; and

(G) use basic calorimetry to determine the amount of energy stored in substances such as coal.

(7) The student understands the basics of fluid mechanics related to energy discovery, production, and transportation. The student is expected to:

(A) identify fluids used as fuels, including liquids and gases;

(B) identify fluids used in the discovery, production, and transportation of energy sources;

(C) explain capillary action and relate it to energy production; and

(D) explain, using formulas, how pressure and temperature affect the behavior of fluids.

(8) The student understands how and where energy is produced and identifies Texas energy resources. The student is expected to:

(A) research the location of energy resources and power production plants in Texas;

(B) compile information on the history of energy production in Texas and describe its past and current importance to the U.S. economy;

(C) investigate the role of technology in the future development of energy usage;

(D) identify ways to conserve energy;

(E) map the major sources of energy used in Texas;

(F) assess the impact of the various energy sources on the economy in Texas;

(G) analyze how supply and demand impacts Texas's economy in relation to energy; and

(H) compare and contrast the impact of energy sources and supply and demand in Texas with national and global data.

(9) The student investigates how energy resources such as water, oil, and natural gas are stored underground in rock formations. The student is expected to:

(A) assess the properties and geological histories of rocks and rock formations that enable energy storage;
§130.491. Petrochemical Safety, Health, and Environment (One Credit).

(a) General requirements. The course is recommended for students in Grades 11 and 12. Students shall be awarded one credit for successful completion of this course.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Energy Career Cluster focuses on Texas’s diverse economic landscape, geography and natural resources, including renewable energy potential, transportation system, labor force, and leadership in environmental research.

(3) Petrochemical Safety, Health, and Environment addresses the shortage of process technology operators/technicians by educating students on the safety rules, regulations, and operations of the petrochemical process technology operator. Students enrolled in this course will learn about the knowledge and skills required in occupational safety, health, and environment as well as the governing regulatory authorities and the legal aspects of the industry in order to maintain a safe work environment.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) research the three major roles of safety, health, and environment as it pertains to process technology operators/technicians;

(B) describe the role of process technicians in relation to safety, health, and environmental issues;

(C) identify the importance of safety, health, and environment as they relate to the performance of all job tasks and regulatory compliance issues within the industries, including, but not limited to, petrochemical plants, refineries, oil and gas production, and power generation; and

(D) explain the importance of interpreting the safety, health, and environmental procedures standards, requirements, and regulations as a process technology operator/technician.

(2) The student examines compliance standards to ensure safe work practices as they relate to safety, health, and environmental regulations. The student is expected to:

(A) identify the legal governing agencies and describe regulatory requirements as they apply to the petrochemical industry, its employees, and the community;

(B) identify specific state and federal regulations and the related specific tasks performed by process technology operators/technicians;

(C) identify safety programs used in the gulf coast area;

(D) determine types of administrative controls and permitting systems to ensure safe work practices, especially as the controls relate to confined spaces and lock-out and tag-out (LOTO);

(E) demonstrate the proper usage of typical safety equipment and systems used in local plants;

(F) describe how engineering controls are designed to allow process technology operators/technicians to operate equipment with system safeguards;

(G) describe the different types of personal protective equipment (PPE), including fire resistant clothing (FRC), hard hats, safety shoes, hearing protection, safety glasses, and acid suits;

(H) evaluate the types of monitors that measure exposure ratings for noise, heat, and radiation;

(I) describe the different types of respiratory protection according to their levels of protection, including air purifying, air supply, escape packs, and self-contained breathing apparatus (SCBA); and

(J) identify the types of monitoring instruments that process operators/technicians use to monitor the atmosphere, oxygen content, explosive atmosphere, and toxicity.

(3) The student summarizes the environmental requirements that are designed to safeguard society. The student is expected to:

(A) describe the types of spills and releases and the environmental factors that can impact them;

(B) identify specific systems that are in place to mitigate or prevent hazards to the environment and to individuals, including safe disposal of hazardous materials;

(C) identify the regulatory governmental agencies, including Occupational Safety and Health Administration (OSHA), Mining Safety and Health Administration (MSHA), Texas Commission on Environmental Quality (TCEQ), and the Environmental Protection Agency (EPA), that protect our safety, health, and environment;

(D) identify the Hazard Communication (HAZCOM) program and its components, including written Emergency Response Plans (ERPs), labeling containers that contain hazardous chemicals, and Safety Data Sheets (SDS) for hazardous chemicals produced or imported;

(E) describe the different types of hazards, including fire and explosions, ergonomic, biological, and blood borne pathogens; and

(F) describe the Maritime Security Act (MARSEC), which protects against terroristic threats.

(4) The student describes equipment and energy and work surface hazards. The student is expected to:

(A) define the types of equipment and energy and work surface hazards, including electrical, rotating equipment, thermal, elevation/heights/fall protection, chemical, slip and trips, and machine guarding;

(B) identify hazards as they pertain to construction, vehicles, weather, and security, and describe how to protect the point of access and the site, including contractors who might have limited safety knowledge, new equipment installation, traffic control, and training on heavy machinery; and

(C) determine how weather conditions can adversely impact safety at a petrochemical plant or other process industry.
including heat stress, hurricanes, freeze precautions, adverse weather conditions, lightning, and wind.

5. The student identifies environmental pollutants as well as regulations to protect the environment. The student is expected to:

(A) describe environmental pollutants, including toxic chemicals;

(B) identify the Material Safety Data Sheet (MSDS) manual list of the hazardous and toxic chemicals for process control sites;

(C) summarize the EPA petition process for approval of chemicals created by a plant;

(D) determine the permissions that must be acquired before site production begins, including a toxicology report such as a Chemical Inventory Management System (CIMS) for a local plant; and

(E) describe the types of environmental controls that are in place to protect the environment such as monitoring and air and water permits.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 24, 2020.

TRD-202000822
Cristina De La Fuente-Valadez
Director, Rulemaking
Texas Education Agency
Earliest possible date of adoption: April 5, 2020
For further information, please call: (512) 475-1497

TITLE 22. EXAMINING BOARDS
PART 3. TEXAS BOARD OF CHIROPRACTIC EXAMINERS
CHAPTER 73. CONTINUING EDUCATION

22 TAC §73.4

The Texas Board of Chiropractic Examiners (Board) proposes new 22 TAC §73.4 (Requirements for Continuing Education Instructors). The purpose of this action is to clarify the standards under which a continuing education instructor shall comply and to make the Board's rules easier to navigate.

The Board's Executive Director, Patrick Fortner, has determined that for the first five-year period the proposed rule is in effect there will be no fiscal implications for state or local government. There will be no adverse effect on small businesses or rural communities, micro-businesses, or local or state employment. There will be no additional economic costs to persons required to comply with the rule as proposed. An Economic Impact Statement and Regulatory Flexibility Analysis is not required because the proposed rule will not have an adverse economic effect on small businesses or rural communities as defined in Texas Government Code §2006.001(1-a) and (2).

Mr. Fortner has determined that for each year of the first five years the proposed rule will be in effect the public benefit is to clarify the standards under which a continuing education instructor shall comply and to make the Board's rules easier to navigate.

The Board provides this Government Growth Impact Statement, pursuant to Texas Government Code §2001.0221, for the proposed new 22 TAC §73.4. For each year of the first five years the proposed rule is in effect, Mr. Fortner has determined:

1. The proposed rule does not create or eliminate a government program.

2. Implementation of the proposed rule does not require the creation of new employee positions or the elimination of existing employee positions.

3. Implementation of the proposed rule does not require an increase or decrease in future legislative appropriations to the Board.

4. The proposed rule does not require a decrease or increase in fees paid to the Board.

5. The proposed rule does not create a new regulation.

6. The proposal does not repeal an existing Board rule for an administrative process.

7. The proposed rule does not decrease the number of individuals subject to the rule's applicability.

8. The proposed rule does not positively or adversely affect the state economy.

Comments on the proposed rule or a request for a public hearing may be submitted to Christopher Burnett, General Counsel, Texas Board of Chiropractic Examiners, 333 Guadalupe, Suite 3-825, Austin, Texas 78701, via email: rules@tbce.state.tx.us; or fax: (512) 305-6705, no later than 30 days from the date that this proposed rule is published in the Texas Register. Please include the rule name and number in the subject line of any comments submitted by email.

The rule is proposed under Texas Occupations Code §201.152, which authorizes the Board to adopt rules necessary to perform the Board's duties and to regulate the practice of chiropractic.

No other statutes or rules are affected by this proposed rule.

§73.4. Requirements for Continuing Education Instructors.

(a) To present a Board-approved continuing education course, an instructor shall meet one of the following qualifications:

1. hold a doctorate degree and active license in chiropractic or law;

2. be part of the full-time faculty of a chiropractic college accredited by the Council of Chiropractic Education;

3. be a qualified health care provider in the subject being taught; or

4. be an individual with substantial knowledge, skill, and ability in chiropractic practice.

(b) Before the beginning of a continuing education course, an instructor shall disclose to attendees any direct or indirect financial interest relating to the subject of the course.

(c) The Board shall disapprove any continuing education course if the instructor is not qualified under subsection (a) of this section.
The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 24, 2020.
TRD-202000794
Christopher Burnett
General Counsel
Texas Board of Chiropractic Examiners
Earliest possible date of adoption: April 5, 2020
For further information, please call: (512) 305-6700

22 TAC §73.5

The Texas Board of Chiropractic Examiners (Board) proposes new 22 TAC §73.5 (Claiming Continuing Education as a National Board Examiner). The purpose of this action is to clarify the standards by which a licensee can claim continuing education hours while serving as a National Board Examiner.

The Board's Executive Director, Patrick Fortner, has determined that for the first five-year period the proposed rule is in effect there will be no fiscal implications for state or local government. There will be no adverse effect on small businesses or rural communities, micro-businesses, or local or state employment. There will be no additional economic costs to persons required to comply with the rule as proposed. An Economic Impact Statement and Regulatory Flexibility Analysis is not required because the proposed rule will not have an adverse economic effect on small businesses or rural communities as defined in Texas Government Code §2006.001(1-a) and (2).

Mr. Fortner has determined that for each year of the first five years the proposed rule will be in effect the public benefit is to clarify the standards by which a licensee can claim continuing education hours while serving as a National Board Examiner.

The Board provides this Government Growth Impact Statement, pursuant to Texas Government Code §2001.0221, for the proposed new 22 TAC §73.5. For each year of the first five years the proposed rule is in effect, Mr. Fortner has determined:

(1) The proposed rule does not create or eliminate a government program.
(2) Implementation of the proposed rule does not require the creation of new employee positions or the elimination of existing employee positions.
(3) Implementation of the proposed rule does not require an increase or decrease in future legislative appropriations to the Board.
(4) The proposed rule does not require a decrease or increase in fees paid to the Board.
(5) The proposed rule does not create a new regulation.
(6) The proposal does not repeal an existing Board rule for an administrative process.
(7) The proposed rule does not decrease the number of individuals subject to the rule's applicability.
(8) The proposed rule does not positively or adversely affect the state economy.

Comments on the proposed rule or a request for a public hearing may be submitted to Christopher Burnett, General Counsel, Texas Board of Chiropractic Examiners, 333 Guadalupe, Suite 3-825, Austin, Texas 78701, via email: rules@tbec.state.tx.us; or fax: (512) 305-6705, no later than 30 days from the date that this proposed rule is published in the Texas Register. Please include the rule name and number in the subject line of any comments submitted by email.

The rule is proposed under Texas Occupations Code §201.152, which authorizes the Board to adopt rules necessary to perform the Board's duties and to regulate the practice of chiropractic.

No other statutes or rules are affected by this proposed rule.

§73.5. Claiming Continuing Education as a National Board Examiner:

(a) A licensee who serves as an examiner for the National Board of Chiropractic Examiners' Part IV Examination may receive up to 8 hours of continuing education each year for the licensee's participation.

(b) A licensee claiming hours as a National Boards examiner shall submit written verification on National Boards letterhead of the licensee's participation as an examiner.

(c) The written verification shall include the licensee's name, license number, and the date, time, and place of each examination attended by the licensee as an examiner.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 24, 2020.
TRD-202000795
Christopher Burnett
General Counsel
Texas Board of Chiropractic Examiners
Earliest possible date of adoption: April 5, 2020
For further information, please call: (512) 305-6700

CHAPTER 81. ENFORCEMENT ACTIONS AND HEARINGS

22 TAC §81.4

The Texas Board of Chiropractic Examiners (Board) proposes repealing 22 TAC §81.4 (Administrative Hearings). The purpose of this action is to remove superfluous rules and make the Board's rules easier to read and navigate.

The Board's Executive Director, Patrick Fortner, has determined that for the first five-year period the proposed repeal is in effect there will be no fiscal implications for state or local government. There will be no adverse effect on small businesses or rural communities, micro-businesses, or local or state employment. There will be no additional economic costs to persons required to comply with the repeal as proposed. An Economic Impact Statement and Regulatory Flexibility Analysis is not required because the proposed repeal will not have an adverse economic effect on small businesses or rural communities as defined in Texas Government Code §2006.001(1-a) and (2).
Mr. Fortner has determined that for each year of the first five years the proposed repeal will be in effect the public benefit is to remove superfluous rules and make the Board’s rules easier to read and navigate.

The Board provides this Government Growth Impact Statement, pursuant to Texas Government Code §2001.0221, for the proposed repeal of 22 TAC §81.4. For each year of the first five years the proposed repeal is in effect, Mr. Fortner has determined:

(1) The proposed repeal does not create or eliminate a government program.

(2) Implementation of the proposed repeal does not require the creation of new employee positions or the elimination of existing employee positions.

(3) Implementation of the proposed repeal does not require an increase or decrease in future legislative appropriations to the Board.

(4) The proposed repeal does not require a decrease or increase in fees paid to the Board.

(5) The proposed repeal does not create a new regulation.

(6) The proposal repeals existing Board rules for an administrative process.

(7) The proposed repeal does not decrease the number of individuals subject to the rule’s applicability.

(8) The proposed repeal does not positively or adversely affect the state economy.

Comments on the proposed repeal or a request for a public hearing may be submitted to Christopher Burnett, General Counsel, Texas Board of Chiropractic Examiners, 333 Guadalupe, Suite 3-825, Austin, Texas 78701, via email: rules@tbce.state.tx.us; or fax: (512) 305-6705, no later than 30 days from the date that this proposed repeal is published in the Texas Register. Please include the rule name and number in the subject line of any comments submitted by email.

The repeal is proposed under Texas Occupations Code §201.152, which authorizes the Board to adopt rules necessary to perform the Board’s duties and to regulate the practice of chiropractic.

No other statutes or rules are affected by this proposed repeal.

§81.4. Administrative Hearings.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency’s legal authority to adopt.

Filed with the Office of the Secretary of State on February 24, 2020.

TRD-202000793
Christopher Burnett
General Counsel
Texas Board of Chiropractic Examiners
Earliest possible date of adoption: April 5, 2020
For further information, please call: (512) 305-6700

PART 14. TEXAS OPTOMETRY BOARD

CHAPTER 275. CONTINUING EDUCATION

22 TAC §275.2

The Texas Optometry Board proposes amendments to 22 TAC §275.2 to implement House Bill 2174, House Bill 3285, and House Bill 2059, Regular Session, 86th Legislature, requiring designated licensees to complete continuing education in prescribing controlled substances and opioids. The legislation also requires designated licensees to take a continuing education course regarding human trafficking.

Chris Kloeris, executive director of the Texas Optometry Board, estimates that for the first five-year period the amendments are in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the amendments. Mr. Kloeris has also determined that for each of the first five years the amendments are in effect, the public benefit anticipated is that licensees will receive education regarding the proper prescribing of controlled substances and detecting and assisting with the prevention of human trafficking.

The amendments are necessary to implement the above described legislation and are necessary to protect the health, safety, and welfare of the residents of this state. The amendments apply to designated licensed optometrists, the individuals affected by this rule. It is predicted that there will be no economic costs for licensees subject to the amendments to comply with the human trafficking education which will be available without cost. The agency predicts that the licensees required to take the opioid prescribing course may incur costs, depending on the course selected, from no cost up to $100 annually for the three years the requirement is in effect. The agency predicts that licensees required to take the one-time controlled substance education course may incur costs, depending on the course selected, from no cost up to $100. The agency welcomes comments regarding the estimation of the costs required to comply with the rule amendments.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS ON SMALL BUSINESSES AND RURAL COMMUNITIES

The agency licenses approximately 4,250 optometrists affected by the rule amendments. A significant majority of licensees own or work in one or more of the 1,000 to 3,000 optometric practices which meet the definition of a small business. Some of these practices meet the definition of a micro business. Some of these practices are in rural communities. The agency does not license these practices; it only licenses individual optometrists. The projected economic impact of this proposed rule on the small businesses and rural communities is projected to be neutral based on the analysis in the preceding paragraph.

ENVIRONMENT AND TAKINGS IMPACT ASSESSMENT

The agency has determined that this proposal is not a "major environmental rule" as defined by Texas Government Code §2001.0225. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure. The agency has determined that the proposed rule does not restrict or limit an owner’s right to his or her property that would otherwise exist in the absence of government action, and therefore does not constitute a taking under Texas Government Code §2007.043.

GOVERNMENT GROWTH IMPACT STATEMENT
During the first five years that the proposed rule will be in effect, it is anticipated that the proposed rule will not create or eliminate a government program. Further, implementation of the proposed amendments will not require the creation of new employee positions or the elimination of an existing employee position; implementation of the proposed amendments will not require an increase or decrease in future legislative appropriations to the agency; and the proposed amendments will not require an increase or decrease in fees paid to the agency. The proposed amendments do not create a new regulation but do amend a current rule to require the completion of additional continuing education. The proposed amendments do not change the number of individuals subject to the rule, and the effect on the state’s economy is neutral.

Comments on the proposal may be submitted to Chris Kloeris, Executive Director, Texas Optometry Board, 333 Guadalupe Street, Suite 2-420, Austin, Texas 78701-3942. The deadline for furnishing comments is thirty days after publication in the Texas Register.

The amendments are proposed under the Texas Optometry Act, Texas Occupations Code, §351.151 and House Bill 2174, House Bill 3285, and House Bill 2059, Regular Session, 86th Legislature. No other sections are affected by the amendments.

The Texas Optometry Board interprets §351.151 as authorizing the adoption of procedural and substantive rules for the regulation of the optometric profession. The agency interprets House Bill 2174 as requiring certain licensees to take controlled substance education, House Bill 3285 as requiring certain licensees to take opioid prescriber education, and House Bill 2059 as requiring certain licensees to take human trafficking education.

§275.2. Required Education.

(a) - (f) (No change.)

(g) Requirements for renewal of license imposed by other state law. A licensee that fails to timely meet these requirements may not renew the license.

(1) Two-hour controlled substances prescribing course. Section 481.07635 of the Health and Safety Code requires each active optometric glaucoma specialist licensed prior to September 1, 2020, to complete two hours of continuing education related to approved procedures of prescribing and monitoring controlled substances on or before September 1, 2021. Each active optometric glaucoma specialist licensed after September 1, 2020, must complete the continuing education required by this subsection within one year of the initial optometric glaucoma specialist license date. Licensees will receive two credit hours upon submission of written proof of completion of the approved course. This is a one-time education requirement. The taking of board-approved courses described in this subsection in subsequent years may satisfy the professional responsibility requirement of §275.1(b) of this title.

(2) One-hour opioid prescribing course. To renew a license for 2021 and subsequent years, §481.0764 of the Health and Safety Code requires all active licensees who prescribe or dispense opioids to take each year a one-hour board-approved continuing education course covering best practices, alternative treatment options, and multi-modal approaches to pain management that may include physical therapy, psychotherapy, and other treatments. Licensees will receive one credit hour upon submission of written proof of completion of the approved course.

(3) One-hour human trafficking course. To renew a license for 2021 and subsequent years, §116.002 of the Occupations Code requires all active licensees who provide direct patient care to complete a training course on identifying and assisting victims of human trafficking. Licensees will receive one general credit hour upon submission of written proof of completion of the approved course.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency’s legal authority to adopt.

Filed with the Office of the Secretary of State on February 21, 2020.

TRD-202000764
Chris Kloeris
Executive Director
Texas Optometry Board
Earliest possible date of adoption: April 5, 2020
For further information, please call: (512) 305-8500

TITLE 25. HEALTH SERVICES

PART 1. DEPARTMENT OF STATE HEALTH SERVICES

CHAPTER 49. ORAL HEALTH IMPROVEMENT PROGRAM

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC), on behalf of the Department of State Health Services (DHS), proposes the repeal of §§49.1 - 49.10, 49.13 - 49.18, concerning the Oral Health Program; and new §§49.1 - 49.6, concerning the Oral Health Improvement Program.

BACKGROUND AND PURPOSE

The purpose of the proposal is to repeal and replace Chapter 49, in accordance with Texas Government Code, §2001.039, regarding Agency Review of Existing Rules. The repeal and new rules are necessary to accurately reflect current program activities and functions of the Oral Health Improvement Program, due to changes implemented by Senate Bill 200 and Senate Bill 219, 84th Legislature, Regular Session, 2015.

The repealed rules included direct client services, which are no longer offered due to lack of funding, and any remaining dental services are provided by HHSC post transformation. The Oral Health Improvement Program remains at DSHS as a public health program that promotes oral health and reduces the burden of dental disease through evidence-based public health initiatives, including oral health education and preventive interventions. The program also conducts oral health surveillance activities, analyzes data from multiple sources, and disseminates findings to stakeholders.

SECTION-BY-SECTION SUMMARY

The proposed repeal of §§49.1 - 49.10, 49.13, 49.14, and 49.16 - 49.18 removes language that included fee-for-service program information that is no longer in service. This language included details on how dentists could participate in the program, who could receive services, and how dentists were to be compensated. DSHS no longer provides direct services.
Proposed new §49.1 describes the purpose and application of the Texas Oral Health Improvement Act, Texas Health and Safety Code, Chapter 43 (Act).

Proposed new §49.2 provides definitions of terms used within the chapter.

Proposed new §49.3 describes public oral health screening and surveillance activities to be conducted by the Oral Health Improvement Program across the State of Texas.

Proposed new §49.4 describes that a memorandum of understanding is required to work with schools and school districts.

Proposed new §49.5 describes program priorities that are determined based on data, research, public health principles, and other factors.

Proposed new §49.6 describes implementation of program activities.

FISCAL NOTE
Donna Sheppard, Chief Financial Officer, has determined that for each year of the first five years that the rules will be in effect, enforcing or administering the rules does not have foreseeable implications relating to costs or revenues of state or local governments.

GOVERNMENT GROWTH IMPACT STATEMENT
DSHS has determined that during the first five years that the rules will be in effect:

(1) the proposed rules will not create or eliminate a government program;
(2) implementation of the proposed rules will not affect the number of DSHS employee positions;
(3) implementation of the proposed rules will result in no assumed change in future legislative appropriations;
(4) the proposed rules will not affect fees paid to DSHS;
(5) the proposed rules will create new rules;
(6) the proposed rules will repeal existing rules;
(7) the proposed rules will not change the number of individuals subject to the rules; and
(8) the proposed rules will not affect the state’s economy.

SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT ANALYSIS
Donna Sheppard, has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities.

The rules do not impose any additional costs on small businesses, micro-businesses, or rural communities that are required to comply with the rules.

LOCAL EMPLOYMENT IMPACT
The proposed rules will not affect a local economy.

COSTS TO REGULATED PERSONS
Texas Government Code, §2001.0045 does not apply to these rules because the rules are necessary to protect the health, safety, and welfare of the residents of Texas; and does not impose a cost on regulated persons.

PUBLIC BENEFIT AND COSTS
Manda Hall, M.D., Community Health Improvement Division Associate Commissioner, has determined that for each year of the first five years the rules are in effect, the public benefit will be to improve oral health across the state through evidence-based public health initiatives. Reducing the burden of dental disease improves school attendance and learning in children and improves work productivity and employability in adults. It also reduces dental-related emergency department visits.

Donna Sheppard, has also determined that for the first five years the rules are in effect, there are no anticipated economic costs to persons who are required to comply with the proposed rules, because the rules do not impose any additional costs to participants in the Oral Health Improvement Program.

TAKINGS IMPACT ASSESSMENT
DSHS has determined that the proposal does not restrict or limit an owner’s right to his or her property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking under Texas Government Code, §2007.043.

PUBLIC COMMENT
Written comments on the proposal may be submitted to Brittany Akl, Program Operations Coordinator, P.O. Box 149347, Mail Code 1818, Austin, Texas 78714-4397; or by email to dental@dshs.texas.gov; or by fax to (512) 776-7256.

To be considered, comments must be submitted no later than 31 days after the date of this issue of the Texas Register. Comments must be: (1) postmarked or shipped before the last day of the comment period; (2) hand-delivered before 5:00 p.m. on the last working day of the comment period; or (3) faxed or emailed before midnight on the last day of the comment period. If last day to submit comments falls on a holiday, comments must be postmarked, shipped, or emailed before midnight on the following business day to be accepted. When faxing or emailing comments, please indicate “Comments on Proposed Rule 19R002 in the subject line.

SUBCHAPTER A. GENERAL PROVISIONS
25 TAC §§49.1 - 49.4
STATUTORY AUTHORITY
The repeals are authorized by Texas Health and Safety Code, Texas Oral Health Improvement Act, Chapter 43; Texas Education Code, §22.0834; and Texas Government Code, §531.0055, and Texas Health and Safety Code, §1001.075, which provides for the Executive Commissioner of the Health and Human Services Commission to adopt rules for the operation and provision of services by the health and human services agencies.


§49.1. Purpose and Application.
§49.2. Definitions.
§49.3. Oral Health Program Priorities.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency’s legal authority to adopt.
25 TAC §§49.1 - 49.6

STATUTORY AUTHORITY
The new sections are authorized by Texas Health and Safety Code, Texas Oral Health Improvement Act, Chapter 43; Texas Education Code, §22.0834; and Texas Government Code, §531.0055, and Texas Health and Safety Code, §1001.075, which provides for the Executive Commissioner of the Health and Human Services Commission to adopt rules for the operation and provision of services by the health and human services agencies.


§49.1. Purpose and Application.
The rules in this chapter implement the Texas Oral Health Improvement Act, Texas Health and Safety Code, Chapter 43 (Act). The Act authorizes the Department of State Health Services Oral Health Improvement Program to implement activities for eligible individuals to prevent oral disease and associated health risks through surveillance and oral health promotion and education. The program is led by the State Public Health Dental Director.

§49.2. Definitions.
The following words and terms, where used in this chapter, have the following meanings, unless the context clearly indicates otherwise.

(1) Dental hygienist—An individual licensed by the State Board of Dental Examiners to practice dental hygiene in the State of Texas.

(2) Dental sealant--A thin, plastic coating painted on the chewing surfaces of teeth to prevent tooth decay.

(3) Dentist--An individual licensed by the State Board of Dental Examiners to practice dentistry in the State of Texas.

(4) Department--The Department of State Health Services.

(5) Fluoride varnish--A highly concentrated form of fluoride applied to the surface of teeth to prevent tooth decay, remineralize weakened teeth, and treat hypersensitivity.

(6) Health risk--Any attribute or factor that presents a danger or hazard to health.

(7) Oral health--Health affecting the structures of the mouth, including the hard and soft tissues such as teeth, jaws, gums, vestibule, tongue, cheeks, lips, floor and roof of the mouth, and adjacent masticatory structure.

(8) Oral health promotion--Activity that supports or provides active encouragement for the furtherance of oral hygiene, dental care, and conditions conducive to good oral health.

(9) Program--The Oral Health Improvement Program at the department.

(10) Public health--Protection and improvement of community health through organized community effort.

(11) Screening--A non-comprehensive visual observation of the oral cavity to assess oral health status.

(12) Silver diamine fluoride--Topical liquid applied to dental cavities to relieve sensitivity and prevent further progression of tooth decay.

(13) State Public Health Dental Director--A Texas licensed dentist who leads the Oral Health Improvement Program at the department.

(14) Surveillance--Observation of a population group, condition, or ongoing activity in order to gather information.

§49.3. Oral Health Improvement Program.
The department may perform public oral health screening and surveillance across the State of Texas.

(1) Regional dental teams perform open mouth screening to assess the oral health of individuals.

(2) Regional dentists issue written findings, which may include recommendation for a comprehensive exam.

(3) The data collected from oral health surveillance may include:
   (A) demographic data;
   (B) dental history;
   (C) history of tooth decay;
   (D) presence of dental sealants; and
   (E) early and urgent dental needs.

§49.4. Oral Health Improvement Program in Schools.
The program contracts with schools and school districts through a memorandum of understanding and adheres to the Texas Education Code, §22.0834.

§49.5. Oral Health Improvement Program Priorities.
Program priorities are determined based on data, research, public health principles, and other factors. Priorities may include:

(1) oral health surveillance;

(2) oral disease prevention;

(3) oral health education and promotion;

(4) oral health subject matter expertise for the department, other agencies, and other organizations; or

(5) facilitation of access to oral health services.

§49.6. Implementation of Oral Health Improvement Program Activities.

(a) The implementation of any and all program activities is subject to the availability of funds. The program identifies populations based on socioeconomic need, limited access to dental providers, and other risk factors.

(b) Program conducts oral health surveillance activities based on priorities determined by the program and may include:

(1) collecting data through visual, open-mouth screening, survey, or other means as defined in policy; and

(2) preparing statistical or other public health reports based on surveillance data.

45 TexReg 1600 March 6, 2020 Texas Register
(c) Oral disease prevention activities may include open-mouth screening, community water fluoridation, fluoride varnish applications, silver diamine fluoride applications, or dental sealants.

(d) Oral health promotion and education topics may include the improvement of home care, the importance of dental check-ups, the relationship between oral health and general health, the prevention and detection of oral cancer, and the improvement of perinatal oral health. Activities may include:

1. public health education to promote the prevention of oral disease;
2. initiation and expansion of preschool, school, and adult education programs;
3. organization of continuing health education for health providers; and
4. preventive health education information for the public.

(e) Oral health subject matter expertise includes providing information and guidance to the department and other agencies and organizations regarding oral health and oral disease prevention. Activities may include:

1. assisting in the development of oral health training materials;
2. providing feedback on policies or programs with an oral health component; and
3. ensuring public health policies and procedures include oral health components.

(f) Program shall work to facilitate access to oral health services by informing the public of available services and promoting better distribution of dentists and other oral health professionals throughout the State of Texas.

(g) Program activities must adhere to the Dental Practice Act, Texas Occupations Code, Chapters 251 - Chapter 267.

(h) The department may implement activities through contracts or interagency agreements with entities that may include academic institutions, professional associations, or nonprofit organizations.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency’s legal authority to adopt.

Filed with the Office of the Secretary of State on February 21, 2020.

TRD-202000771
Barbara L. Klein
General Counsel
Department of State Health Services
Earliest possible date of adoption: April 5, 2020
For further information, please call: (512) 776-2008

SUBCHAPTER C. PROVIDER PARTICIPATION IN FFS ORAL HEALTH TREATMENT BENEFITS

25 TAC §§49.10, 49.13 - 49.15

STATUTORY AUTHORITY

The repeals are authorized by Texas Health and Safety Code, Texas Oral Health Improvement Act, Chapter 43; Texas Education Code, §22.0834; and Texas Government Code, §531.0055, and Texas Health and Safety Code, §1001.075, which provides for the Executive Commissioner of the Health and Human Services Commission to adopt rules for the operation and provision of services by the health and human services agencies.


§49.5. Application Process for FFS Oral Health Treatment Benefits.
§49.6. Eligibility Requirements for Referral for FFS Oral Health Treatment Benefits.
§49.7. Eligibility Requirements to Receive FFS Oral Health Treatment Benefits.
§49.8. Denial, Modification, Suspension, and Termination of FFS Oral Health Treatment Benefits.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency’s legal authority to adopt.

Filed with the Office of the Secretary of State on February 21, 2020.

TRD-202000767
Barbara L. Klein
General Counsel
Department of State Health Services
Earliest possible date of adoption: April 5, 2020
For further information, please call: (512) 776-2008

SUBCHAPTER B. RECIPIENT PARTICIPATION IN FFS ORAL HEALTH TREATMENT BENEFITS

25 TAC §§49.5 - 49.9

STATUTORY AUTHORITY

The repeals are authorized by Texas Health and Safety Code, Texas Oral Health Improvement Act, Chapter 43; Texas Education Code, §22.0834; and Texas Government Code, §531.0055, and Texas Health and Safety Code, §1001.075, which provides for the Executive Commissioner of the Health and Human Services Commission to adopt rules for the operation and provision of services by the health and human services agencies.


§49.10. Provider Participation Requirements to Provide FFS Oral Health Treatment Services.
§49.13. FFS Oral Health Treatment Services by Non-Providers.
§49.15. Administrative Sanctions.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency’s legal authority to adopt.

Filed with the Office of the Secretary of State on February 21, 2020.

The proposed amendment to §421.41(4)(H) adds a freestanding emergency medical care facility to the list of healthcare facilities that DSHS will collect data from and is consistent with the change in the new statute listing of healthcare facilities under Texas Health and Safety Code, Chapter 108 from H.B. 2041.

The proposed amendments to §§421.41, 421.61, 421.71, 421.72, 421.77, and 421.78 add the word "Texas" to "Health and Safety Code" to clarify and standardize the reference to the statute.

The proposed amendment to §421.61(8), APG, clarifies that the APG software is the 3M™ version of the "Enhanced Ambulatory Patient Grouper" software that DSHS is using on the data. The other proposed change inserts the phrase "ambulatory patient" and deletes the phrase "hospital-based outpatient" from this paragraph.

The proposed amendment to §421.61(14), CRG, deletes the definition in response to a program initiative because enrollment information for all patients captured in our data cannot feasibly be captured by the program. The enrollment information is necessary to create the CRG codes. The proposed deletion of "CRG" causes the remaining definitions in the section to be renumbered.

The proposed amendment to §421.61(18), Electronic Filing, corrects the phrase "nine-track" to standardize the language for the rule.

The proposed amendment to §421.61(44), Rendering provider or rendering other health professional, updates the referenced paragraphs to the section to (26), (36), and (40), respectively.

The title of Subchapter E is amended to "Collection And Release Of Emergency Visit Data" in response to H.B. 2041 addressing all emergency visits.

The proposed amendment to §421.71(5), APG, clarifies that the APG software is the 3M™ version of the "Enhanced Ambulatory Patient Grouper" software that DSHS is using on the data. The other proposed change inserts the phrase "ambulatory patient" and deletes the phrase "hospital-based outpatient" from this paragraph. The word "emergency" is inserted between "outpatient" and "visit."

The proposed amendment to §421.71(12), CRG, deletes the definition in response to a program initiative because enrollment information for all patients captured in our data cannot feasibly be captured by the program. The enrollment information is necessary to create the CRG codes. The proposed deletion of "CRG" cause the remaining definitions in the section to be renumbered.

The proposed amendment to §421.71(15), Electronic Filing, corrects the phrase "nine-track" to standardize the language for the rule.

The proposed amendment to §421.71(16), Emergency Department, replaces the phrase "health care" with "freestanding emergency medical care."

SUBCHAPTER D. APPEALS PROCESS FOR FFS ORAL HEALTH TREATMENT BENEFITS AND SERVICES

25 TAC §§49.16 - 49.18

STATUTORY AUTHORITY

The repeals are authorized by Texas Health and Safety Code, Texas Oral Health Improvement Act, Chapter 43; Texas Education Code, §22.0834; and Texas Government Code, §531.0055, and Texas Health and Safety Code, §1001.075, which provides for the Executive Commissioner of the Health and Human Services Commission to adopt rules for the operation and provision of services by the health and human services agencies.


§49.16. Administrative Review.

§49.17. Due Process Hearing.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 21, 2020.

TRD-202000769
Barbara L. Klein
General Counsel
Department of State Health Services
Earliest possible date of adoption: April 5, 2020
For further information, please call: (512) 776-2008

CHAPTER 421. HEALTH CARE INFORMATION

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC), on behalf of the Department of State Health Services (DSHS), proposes amendments to §421.41, concerning Definitions; §421.61, concerning Definitions; §421.71, concerning Definitions; §421.72, concerning Collection of Outpatient Emergency Visit Data; §421.77, concerning Event Files—Records, Data Fields and Codes; and §421.78, concerning Outpatient Emergency Visit Event Data Release.

BACKGROUND AND PURPOSE

The proposal is necessary to comply with House Bill (H.B.) 2041, 86th Texas Legislature, Regular Session, 2019, which amended Texas Health and Safety Code, §108.002(10) and requires DSHS to collect, process, and make claim level data from freestanding emergency medical care facilities available.

SECTION-BY-SECTION SUMMARY

TRD-202000768
Barbara L. Klein
General Counsel
Department of State Health Services
Earliest possible date of adoption: April 5, 2020
For further information, please call: (512) 776-2008

45 TexReg 1602 March 6, 2020 Texas Register
The proposed amendment to §421.71(17), Emergency Visit Patient or patient, deletes language referencing emergency visit services "covered by the revenue codes specified in §421.77(e) of this title" and the word "may" in the last sentence.

The proposed amendment to §421.71(24), Facility, adds the phrase "or freestanding emergency medical care facility."

The proposed amendment to §421.71(25), Facility Type Indicators, inserts the phrase "or freestanding emergency medical care facility" after "Cancer Hospital."

The proposed amendment to §421.71(31), IRB—Institutional Review Board, deletes the words "outpatient" and "event" leaving the phrase "requests for data or information other than the emergency visit public use data" as the data the IRB reviews and approves or disapproves for release under Texas Health and Safety Code, Chapter 108.

The proposed amendment to §421.71(35), Outpatient Emergency Visit, deletes the words "hospital" and "or," and adds the phrase ", or freestanding emergency medical care facility" after "emergency room."

The proposed amendment to §421.72 revises the title of the section to "Collection of Emergency Visit Data."

The proposed amendment to §421.72(a) deletes the words "outpatient" and "event," and deletes the phrase "in which the patient received one or more emergency services covered by the revenue codes specified in §421.77(e) of this title." The proposed amendment also inserts the phrase "emergency visit" in this subsection. The proposed amendment adds the phrase "of this title" after referenced sections "§421.77(d)(26) or (29)" and "§421.77(d)(28)(A) - (C)." These proposed amendments clarify which patient visits are required to be submitted to DSHS.

The proposed amendment to §421.72(b) deletes the word "outpatient" and the phrase "in which the patient received one or more of the emergency services covered by the revenue codes specified in §421.77(e) of this title" in this subsection. The proposed amendment also inserts the word "services" after the word "emergency," and deletes the phrase "service covered by the revenue codes specified in §421.77(e) of this title." The proposed amendment to this section is consistent with other proposed amendments in response to H.B. 2041.

The proposed amendment to §421.77(a) inserts the phrase "emergency visit" and deletes the word "outpatient" in this subsection. The proposed amendment is consistent with the other proposed amendments in response to H.B. 2041.

The proposed amendment to §421.77 revises the title of the section to "Emergency Visit Data Release."

The proposed amendments to §421.78(c) and (d) delete the words "outpatient" and "event." The proposed amendment to this section is consistent with the proposed amendments in response to H.B. 2041.

The proposed amendments to §421.78(d)(10)(V) - §421.78(d)(10)(Z) add the trademark symbol "™" to 3M, for consistency within the rules.

FISCAL NOTE

Donna Sheppard, DSHS Chief Financial Officer, has determined that for each year of the first five years that the rules will be in effect, there will be an estimated additional cost and increase in revenue to state government as a result of enforcing and administering the rules as proposed. DSHS does not anticipate a cost to local governments from the implementation of the rules.

The effect on state government for each year of the first five years the proposed rules are in effect is an estimated cost of $118,207 in fiscal year (FY) 2020; $168,615 in fiscal year FY 2021; $152,505 in FY 2022; $152,505 in FY 2023; and $152,505 in FY 2024; and an estimated increase in revenue of $0 in fiscal year FY 2021; $75,000 in FY 2022; $75,000 in FY 2023; $75,000 in FY 2024; and $75,000 in FY 2025.

GOVERNMENT GROWTH IMPACT STATEMENT

DSHS has determined that during the first five years that the rules will be in effect:

1. the proposed rules will not create or eliminate a government program;
2. implementation of the proposed rules will create a new DSHS employee position, Research Specialist IV;
3. implementation of the proposed rules will result in no assumed change in future legislative appropriations;
4. the proposed rules will not affect fees paid to the agency;
5. the proposed rules will not create a new rule;
6. the proposed rules will expand existing rules; and
7. the proposed rules will increase the number of individuals/healthcare facilities subject to the rules.

DSHS has insufficient information to determine the proposed rules' effect on the state's economy.

SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT ANALYSIS

Donna Sheppard has also determined that there will be an adverse economic effect on small businesses or micro-businesses. DSHS does not anticipate an impact on rural communities as result of implementing and enforcing the rules as proposed.

All freestanding emergency medical care facilities required to comply with H.B. 2041 and Texas Health and Safety Code, Chapter 108 must submit the required data specified in the relevant sections under 25 TAC §§421.61 - 421.69, 421.71 - 421.79.

DSHS cannot estimate the number of small businesses, and micro-businesses subject to the proposed rules because there is no available information on the number of employees and gross revenue for those freestanding emergency medical care facilities. The projected economic impact for a small business and micro-business is two organizations indicated there would be no additional costs. One freestanding organization provided a one-time cost estimate for 13 freestanding emergency medical care facilities of $58,344 and annual operational and maintenance cost of $286,600. The average of this cost would be equal to a one-time cost of $4,488.00 and annual operational cost of $22,046.15.

The proposed rules will affect approximately 370 freestanding emergency medical care facilities (213 licensed freestanding emergency medical care facilities licensed under Texas Health and Safety Code, Chapter 254 and approximately 157 exempt (hospital based) freestanding emergency medical care facilities licensed under Texas Health and Safety Code, Chapter 241).

DSHS determined that no alternative methods can be provided to meet the legislative intent of H.B. 2041 and Texas Health and
Safety Code, Chapter 108 and the proposed and current rules under 25 TAC Chapter 421.

LOCAL EMPLOYMENT IMPACT

The proposed rules will not affect a local economy.

COSTS TO REGULATED PERSONS

Texas Government Code, §2001.0045 does not apply to these rules because the rules are necessary to protect the health, safety, and welfare of the residents of Texas; and are necessary to implement legislation that does not specifically state that §2001.0045 applies to the rules.

PUBLIC BENEFIT AND COSTS

Lara Lamprrecht, DSHS Assistant Deputy Commissioner, has determined that for each year of the first five years the rules are in effect, the public benefit will be increased transparency in the utilization and quality of care for services and charges provided by freestanding emergency medical care facilities within the State of Texas.

Donna Sheppard, DSHS Chief Financial Officer has also determined that for the first five years the rules are in effect, persons who are required to comply with the proposed rules may incur economic costs of $26,534 for Fiscal Year 2020, and $22,046 for fiscal years 2021, 2022, 2023, and 2024. The costs are for capturing, possibly hiring additional staff, modifying contracts for information systems or modifying the entities information systems, storing, submitting, correcting and certifying the required claims data submitted by freestanding standing emergency medical care facilities to comply with these proposed rules.

REGULATORY ANALYSIS

DSHS has determined that this proposal is not a "major environmental rule" as defined by Government Code §2001.0225. "Major environmental rule" is defined to mean a rule the specific intent of which is to protect the environment or reduce risk to human health from environmental exposure and that may adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment or the public health and safety of a state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

TAKINGS IMPACT ASSESSMENT

DSHS has determined that the proposal does not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking under Texas Government Code, §2007.043.

PUBLIC COMMENT

Questions about the content of this proposal may be directed to Bruce Burns at (512) 776-6431 in DSHS Texas Health Care Information Collection program.

Written comments on the proposal may be submitted to Bruce Burns, Manager, Texas Health Care Information Collection program, DSHS-Center for Health Statistics, Mail Code -1898, P.O. Box 149347, Austin, Texas 78714-9347 or street address 1100 W. 49th Street, Room M-628, Austin, TX 78762; or by e-mail to THCHelp@dshs.texas.gov.

To be considered, comments must be submitted no later than 31 days after the date of this issue of the Texas Register. Comments must be: (1) postmarked or shipped before the last day of the comment period; (2) hand-delivered before 5:00 p.m. on the last working day of the comment period; or (3) emailed before midnight on the last day of the comment period. If last day to submit comments falls on a holiday, comments must be postmarked, shipped, or emailed before midnight on the following business day to be accepted. When emailing comments, please indicate "Comments on Proposed Rule 19R064" in the subject line.

SUBCHAPTER C. RULES RELATING TO REPORTS, DATA REQUESTS AND DATA FEES

25 TAC §421.41

STATUTORY AUTHORITY

The amendment is authorized by Texas Health and Safety Code, §§108.006, 108.009, 108.010, 108.011 and 108.013; and Texas Government Code, §531.0055, and Texas Health and Safety Code, §1001.075, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies.

The amendment implements Texas Government Code §531.0055; and Texas Health and Safety Code, Chapters 108 and 1001.

§421.41 Definitions.

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

(1) DSHS--Department of State Health Services.
(2) Director--Director of the Center for Health Statistics.
(3) Executive Leaders--Executive leaders with the classification of Assistant Deputy Commissioner or above.
(4) Health care facility--
   (A) A hospital;
   (B) An ambulatory surgical center licensed under Chapter 243;
   (C) A chemical dependency treatment facility licensed under Chapter 464;
   (D) A renal dialysis facility;
   (E) A birthing center;
   (F) A rural health clinic; [see]
   (G) A federally qualified health center as defined by 42 U.S.C. §1396d(l)(2)(B); or [§336d(l)(2)(B)];
   (H) A freestanding emergency medical care facility, as defined by Texas Health and Safety Code, Section 108.002(10)(I).
(5) Provider--Physician or health care facility.
(6) Provider Level--Data or information that identifies specific providers by name or uniform identifier.
(7) Public Information Report--A report created for providing information related to health care quality or effectiveness or access to health care that will be shared with the public. For example: A provider level public information report provides data or information at the provider level and includes provider (health care facility) identifiers and a statewide or geographic level public information report provides data at the prescribed geographic level and does not include provider identifiers. Query results generated from public use data which are

45 TexReg 1604 March 6, 2020 Texas Register
available on the DSHS website are not considered as a public information report.

(8) Request for information--A request made by an individual or organization for summarized or analyzed responses from publicly available data. DSHS does not consider a request for information and responses as a public information report.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 21, 2020.

TRD-202000775
Barbara L. Klein
General Counsel
Department of State Health Services
Earliest possible date of adoption: April 5, 2020
For further information, please call: (512) 776-6431

SUBCHAPTER D. COLLECTION AND RELEASE OF OUTPATIENT SURGICAL AND RADIOLOGICAL PROCEDURES AT HOSPITALS ANDAMBULATORY SURGICAL CENTERS

25 TAC §421.61

STATUTORY AUTHORITY
The amendment is authorized by Texas Health and Safety Code, §§108.006, 108.009, 108.010, 108.011 and 108.013; and Texas Government Code, §531.0055, and Texas Health and Safety Code, §1001.075, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies.

The amendment implements Texas Government Code §531.0055; and Texas Health and Safety Code, Chapters 108 and 1001.

§421.61. Definitions.
The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

1. Accurate and Consistent Data--Data that has been edited by DSHS and subjected to provider validation and certification.

2. Ambulatory Surgical Care Data--Data for events associated with facility services, which require surgery to be performed in an operating room on an anesthetized patient.


4. Anesthetized patient--For the purposes of this subchapter, an outpatient who receives an anesthetic (a substance that reduces sensitivity, feeling, or awareness to pain or bodily sensations or renders the patient unconscious) prior to surgical services from a hospital or ambulatory surgical center.


7. APC--Ambulatory Payment Classification.

8. APG--Enhanced Ambulatory Patient Grouper (Grouper) [Group]--A prospective payment system (PPS) for ambulatory patient [hospital-based outpatient] care developed by 3M Inc. The APGs provide information regarding the kinds and amounts of resources utilized in an outpatient visit and classify patients with similar clinical characteristics.

9. Audit--An electronic standardized process developed and implemented by DSHS to identify potential errors and mistakes in file structure format or data element content by reviewing data fields for the presence or absence of data and the accuracy and appropriateness of data.

10. Certification File--One or more electronic files (may include reports concerning the data and its compilation process) compiled by DSHS that contain one record for each patient event which has at least one procedure covered in the revenue codes or surgical and radiological categories specified in §421.67(f) or §421.67(g) of this title (relating to Event Files--Records, Data Fields and Codes) submitted for each facility under this subchapter during the reporting quarter and may contain one record for each patient event occurring during one prior reporting quarter for whom additional event claims have been received.

11. Certification Process--The process by which a provider confirms the accuracy and completeness of the certification file required to produce the public use data file as specified in §421.66 of this title (relating to Certification of Compiled Event Data).

12. Charge--The amount billed by a provider for specific procedures or services provided to a patient before any adjustment for contractual allowances, government mandated fee schedules or write offs for charity care, bad debt or administrative courtesy. The term does not include co-payments charged to health maintenance organization enrollees by providers paid by capitation or salary in a health maintenance organization.

13. Clinical Classifications Software--A classification system that groups diagnoses and procedures into a limited number of clinically meaningful categories developed at the United States Department of Health and Human Services, Agency for Healthcare Research and Quality (AHRQ).

14. CRG--Clinical Risk Grouping software which classifies individuals into mutually exclusive categories and, using claims data, assigns the patient to a severity level if they have a chronic health condition. Developed by 3M Corporation.

15. Data format--The sequence or location of data elements in an electronic record according to prescribed specifications.

16. DSIS--Department of State Health Services

17. EDI--Electronic Data Interchange--A method of sending data electronically from one computer to another. EDI helps
providers and payers maintain a flow of vital information by enabling the transmission of claims and managed care transactions.

(18) [460] Electronic Filing—The submission of computer records in machine readable form by modem transfer from one computer to another (EDI) or by recording the records on a nine-track magnetic tape, computer diskette, magnetic, or portable data storage media acceptable to DSHS.

(19) [461] Emergency Department—Department or room within a hospital as determined by federal or state law for the provision of emergency health care.

(20) [462] Emergency Department Data—Events associated with hospital services in an emergency department or emergency room.

(21) [463] Error—Data submitted on a event file which are not consistent with the format and data standards contained in this subchapter or with auditing criteria established by DSHS.

(22) [464] Ethnicity—The status of patients relative to Hispanic background. Facilities shall report this data element according to the following ethnic types: Hispanic or Non-Hispanic.

(23) [465] Event—The medical screening examination, triage, observation, diagnosis or treatment of a patient within the authority of a facility.


(25) [467] Event file—A computer file as defined in §421.67 of this title periodically submitted on or on behalf of a facility in compliance with the provisions of this subchapter. "Event File" corresponds to the ANSI 837 Institutional Guide and ANSI 837 Professional Guide terms, "Communication Envelope" or "Interchange Envelope."

(26) [468] Facility—For the purposes of this subchapter, a facility is a hospital or ambulatory surgical center, required to report under the Texas Health and Safety Code, Chapter 108 and this subchapter.

(27) [469] Facility Type Indicators—An indicator that provides information to the data user as to the type of facility or the primary health services delivered at that hospital (e.g., Hospital based ambulatory surgical unit and hospitals with an emergency department or emergency room) and ambulatory surgical centers. A facility may have more than one indicator.

(28) [470] Geographic identifiers—A set of codes indicating the health service region and county in which the patient resides.

(29) [471] HCPCS—Healthcare Common Procedure Coding System of the Centers for Medicare and Medicaid Services. This includes the "Current Procedural Terminology" (CPT) codes (maintained by the "American Medical Association" (AMA)), which are "Level 1" HCPCS codes.

(30) [472] HIPPS—Health Insurance Prospective Payment System.

(31) [473] Hospital—A public, for-profit or nonprofit institution licensed as a general or special hospital (25 TAC §133.2(21)) of this title, or a hospital owned by the state.


(33) [475] IRB—Institutional Review Board composed of DSHS’ appointees or agents who have experience and expertise in ethics, patient confidentiality, and health care data who review and approve or disapprove requests for data or information other than the outpatient event public use data.

(34) [476] Operating or Other Physician—The "physician" licensed by the Texas Medical Board or "other health professional" licensed by the State of Texas who performed the surgical or radiological procedure most closely related to the principal diagnosis.

(35) [477] Other health professional—A person licensed to provide health care services other than a physician. An individual other than a physician who provides diagnostic or therapeutic procedures to patients. The term encompasses persons licensed under various Texas practice statutes, such as psychologists, chiropractors, dentists, nurse practitioners, nurse midwives, and podiatrists who are authorized by the facilities to examine, observe or treat patients.

(36) [478] Other Provider—For the purposes of reporting on the modified ANSI 837 Institutional Guide, the physician, other health professional or facility as reported on a claim, who performed a secondary surgical or a primary or secondary radiological procedure on the patient for the event if they are not reported as the operating or other physician or the facility. In the case where a substitute provider (locum tenens) is used, that physician or other health professional shall be submitted as specified in this subchapter.

(37) [479] Outpatient or patient—For the purposes of this subchapter, a patient who receives surgical or radiological services from an ambulatory surgical center, or a patient who receives surgical or radiological services from a hospital and is not admitted to a hospital for inpatient services. Outpatients include patients who receive one or more services covered by the revenue codes or surgical and radiological categories that are specified in §421.67(f) or §421.67(g) of this title, which may occur in the emergency department, ambulatory care, radiological, imaging or other types of hospital units. Outpatient includes a patient who is transferred from an ambulatory surgical center to another facility or a hospital patient who is under observation and not admitted to the hospital.

(38) [480] Patient account number—A number assigned to each patient by the facility which appears on each computer record in a patient event claim. This number is not consistent for a given patient from one facility to the next, or from one admission to the next in the same facility. DSHS will delete or encrypt this number to protect patient confidentiality prior to release of data.

(39) [481] Physician—An individual licensed under the laws of this state to practice medicine under the Medical Practice Act, Occupations Code, Chapter 151 et seq.

(40) [482] Provider—For the purposes of this subchapter, a physician or facility.

(41) [483] Public use data file—For the purposes of this subchapter, a data file composed of event claims which have been altered by the deletion, encryption or other modification of data fields to protect patient and physician confidentiality and to satisfy other restrictions on the release of data imposed by statute.

(42) [484] Race—A division of patients according to traits that are transmissible by descent and sufficient to characterize them as distinctly human types. Facilities shall report this data element according to the following racial types: American Indian, Eskimo, or Aleut; Asian or Pacific Islander; Black; White; or Other.

(43) [485] Radiological procedures—For the purposes of this subchapter, diagnostic procedures performed on a patient using
radiant energy devices (Projection Radiology (for example - X-ray), Computed Tomography, or other ionizing radiation) or diagnostic radioactive material or other non-ionizing imaging devices (e.g., Magnetic Resonance Imaging, Nuclear Medicine devices (for example Positron Emission Tomography), Sound Imaging devices (for example Ultrasound or Echocardiography), Thermal imaging devices, Diagnostic Light imaging devices (for example - diagnostic photography, endoscopy, and fundoscopy) and other diagnostic imaging devices.

(44) [§421.71(d)] Rendering provider or rendering other health professional--For the purposes of reporting on the modified ANSI 837 Professional Guide, the physician or other health professional who performed the surgical or radiological procedure on the patient for the event. In the case where a substitute provider (locum tenens) is used, that physician or other health professional shall be submitted as specified in this subchapter. For purposes of this definition, the term "provider" is not limited to only a physician or facility as defined in paragraphs (26), (36), and (40) [(27), (28) and (41)] of this subsection.

(45) [§421.71(e)] Required minimum data set--The list of data elements for which facilities may submit an event claim for each patient event occurring in the facility. The required minimum data sets are specified in §421.67(d) and (e) of this title. This list does not include all the data elements that are required by the modified ANSI 837 Institutional Guide or modified ANSI 837 Professional Guide to submit an acceptable event file. For example: Interchange Control Headers and Trailers, Functional Group Headers and Trailers, Transaction Set Headers and Trailers and Qualifying Codes (which identify or qualify subsequent data elements).

(46) [§421.71(f)] Research data file--A customized data file, which may include the data elements in the public use file and may include data elements other than the required minimum data set submitted to DSHS, except those data elements that could reasonably identify a patient or physician.

(47) [§421.71(g)] Submission--The transfer of a set of computer records as specified in §421.67 of this title that constitutes the event file for one or more reporting hospitals under this subchapter.

(48) [§421.71(h)] Subscriber--The person or organization which physically prepares an event file for one or more facilities and submits them under this subchapter. A subscriber may be a facility or an agent designated by a facility or its owner.

(49) [§421.71(i)] Surgical procedure--For the purposes of this subchapter, an invasive procedure that penetrates or breaks the skin or other patient tissue (in vivo) for the purpose diagnosing, evaluating, analyzing, monitoring or treating a patient.

(50) [§421.71(j)] TRICIC Identification Number--A string of 6 characters assigned by DSHS to identify facilities for reporting and tracking purposes. For a facility operating multiple facility locations under one license number and duplicating services at those locations, DSHS will assign a distinguishable identifier for each separate facility location under one license number. The relationship of the identifier to the name and license number of the facility is public information.

(51) [§421.71(k)] Uniform patient identifier--A unique identifier assigned by DSHS to an individual patient and composed of numeric, alpha, or alphanumeric characters, which remains constant across facilities and patient events. The relationship of the identifier to the patient-specific data elements used to assign it is confidential.

(52) [§421.71(l)] Uniform physician identifier--A unique identifier assigned by DSHS to a physician or other health professional who is reported as operating, rendering or other provider providing health care services or treating a patient in a facility and which remains constant across facilities. The relationship of the identifier to the physician-specific data elements used to assign it is confidential. The uniform physician identifier shall consist of alphanumeric characters.

(53) [§421.71(m)] Validation--The process by which a provider verifies the accuracy and completeness of data and corrects any errors identified before certification.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 21, 2020.

TRD-202000776
Barbara L. Klein
General Counsel
Department of State Health Services
Earliest possible date of adoption: April 5, 2020
For further information, please call: (512) 776-6431

SUBCHAPTER E. COLLECTION AND RELEASE OF [HOSPITAL OUTPATIENT] EMERGENCY VISIT [ROOM] DATA

25 TAC §§421.71, 421.72, 421.77, 421.78

STATUTORY AUTHORITY

The amendments are authorized by Texas Health and Safety Code, §§108.006, 108.009, 108.010, 108.011 and 108.013; and Texas Government Code, §531.0055; and Texas Health and Safety Code, §1001.075, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies.

The amendments implement Texas Government Code §531.0055; and Texas Health and Safety Code, Chapters 108 and 1001.

§421.71. Definitions.

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

(1) Accurate and Consistent Data--Data that has been edited by DSHS and subjected to provider validation and certification.

(2) ANSI--American National Standards Institute.


(4) APC--Ambulatory Payment Classification.

(5) APG--Enhanced Ambulatory Patient Grouper [Group (APG)]--A prospective payment system (PPS) for ambulatory patient [hospital-based outpatient] care developed by 3M™. The APGs provide information regarding the kinds and amounts of resources utilized in an outpatient emergency visit and classify patients with similar clinical characteristics.

(6) Audit--An electronic standardized process developed and implemented by DSHS to identify potential errors and mistakes in file structure format or data element content by reviewing data fields.
for the presence or absence of data and the accuracy and appropriateness of data.

(7) Certification File--One or more electronic files (may include reports concerning the data and its compilation process) compiled by DSHS that contain one record for each patient event which has at least one procedure covered in the revenue codes specified in §421.77(e) of this title (relating to Event Files--Records, Data Fields and Codes) submitted for each facility under this subchapter during the reporting quarter and may contain one record for any patient event occurring during one prior reporting quarter for whom additional event claims have been received.

(8) Certification Process--The process by which a provider confirms the accuracy and completeness of the certification file required to produce the public use data file as specified in §421.76 of this title (relating to Certification of Compiled Event Data).

(9) Charge--The amount billed by a provider for specific procedures or services provided to a patient before any adjustment for contractual allowances, government mandated fee schedules or write-offs for charity care, bad debt or administrative courtesy. The term does not include co-payments charged to health maintenance organization enrollees by providers paid by capitation or salary in a health maintenance organization.

(10) Clinical Classifications Software--A classification system that groups diagnoses and procedures into a limited number of clinically meaningful categories developed at the United States Department of Health and Human Services, Agency for Healthcare Research and Quality (AHRQ).

(11) Comments--The notes or explanations submitted by the facilities, physicians or other health professionals concerning the provider quality reports or the encounter data for public use as described in the Texas Health and Safety Code, §108.010(c) and (e) and §108.011(g), respectively.

(12) CRG--Clinical Risk Grouping software which classifies individuals into mutually exclusive categories and, using claims data, assigns the patient to a severity level if they have a chronic health condition. Developed by 3M™ Corporation.

(13) Data format--The sequence or location of data elements in an electronic record according to prescribed specifications.

(14) DSHS--Department of State Health Services.

(15) EDI--Electronic Data Interchange--A method of sending data electronically from one computer to another. EDI helps providers and payers maintain a flow of vital information by enabling the transmission of claims and managed care transactions.

(16) Electronic Filing--The submission of computer records in machine readable form by modem transfer from one computer to another (EDI) or by recording the records on a nine-track magnetic tape, computer diskette, magnetic, or other portable data storage media acceptable to DSHS.

(17) Emergency Department--Department or room within a hospital or freestanding emergency medical care facility as determined by federal or state law for the provision of emergency health care services.

(18) Emergency Visit Patient or patient--For the purposes of this subchapter a patient who receives services in the emergency department or emergency room of the healthcare facility. Emergency Visit Patients include patients who receive one or more services (covered by the revenue codes specified in §421.77(e) of this title), which [may] occur in the emergency department or emergency room of the healthcare facility.

(19) ESRD--End Stage Renal Disease.

(20) Ethnicity--The status of patients relative to Hispanic background. Facilities shall report this data element according to the following ethnic types: Hispanic or Non-Hispanic.

(21) Event--The medical screening examination, triage, observation, diagnosis or treatment of a patient within the authority of a facility that occurs as result of an outpatient emergency visit.

(22) Event claim--A set of computer records as specified in §421.77 of this title relating to a specific patient. "Event claim" corresponds to the ANSI 837 Institutional Guide term, "Transaction set."

(23) Event file--A computer file as defined in §421.77 of this title periodically submitted or on behalf of a facility in compliance with the provisions of this subchapter. "Event File" that corresponds to the ANSI 837 Institutional Guide terms, "Communication Envelope" or "Interchange Envelope."

(24) Facility--For the purposes of this subchapter, a facility is a hospital or freestanding emergency medical care facility required to report under the Texas Health and Safety Code, Chapter 108 and this subchapter.

(25) Facility Type Indicators--An indicator that provides information to the data user as to the type of facility or the primary health services delivered at that hospital (e.g., Acute Care Hospital, Children's Hospital, [or] Cancer Hospital, or Freestanding Emergency Medical Care Facility [etc.]). A facility may have more than one indicator.

(26) Geographic identifiers--A set of codes indicating the health service region and county in which the patient resides.

(27) HCCPCS--Healthcare Common Procedure Coding System of the Centers for Medicare and Medicaid Services. This includes the "Current Procedural Terminology" (CPT) codes (maintained by the "American Medical Association" (AMA)), which are "Level 1" HCCPCS codes.

(28) Hospital--A public, for-profit, or nonprofit institution licensed as a general or special hospital as defined in §133.2(21) of this title (relating to Definitions), or a hospital owned by the state.

(29) ICD--International Classification of Disease.

(30) Inpatient--A patient, including a newborn infant, who is formally admitted to the inpatient service of a hospital and who is subsequently discharged, regardless of status or disposition. Inpatients include patients admitted to medical/surgical, intensive care, nursery, subacute, skilled nursing, long-term, psychiatric, substance abuse, physical rehabilitation and all other types of hospital units.

(31) IRB--Institutional Review Board--composed of DSHS' appointees or agents who have experience and expertise in ethics, patient confidentiality, and health care data who review and approve or disapprove requests for data or information other than the [outpatient] emergency visit [event] public use data.

(32) Operating or Other Physician--The "physician" licensed by the Texas Medical Board or "other health professional" li-
licensed by the State of Texas who performed the surgical or radiological procedure most closely related to the principal diagnosis.

(33) [343] Other health professional—A person licensed to provide health care services other than a physician. "Other health professional" is an individual other than a physician who provides diagnostic or therapeutic procedures to patients. The term encompasses persons licensed under various Texas practice statutes, such as psychologists, chiropractors, dentists, nurse practitioners, nurse midwives, physicians assistants and podiatrists who are authorized by the facilities to examine, observe or treat patients.

(34) [353] Other Provider—For the purposes of reporting on the modified ANSI 837 Institutional Guide, the physician, other health professional or facility as reported on a claim, who performed a secondary surgical or a primary or secondary radiological procedure on the patient for the event, if they are not reported as the operating or other physician or the facility. In the case where a substitute provider (locum tenens) is used, that physician or other health professional shall be submitted as specified in this subchapter.

(35) [363] Outpatient Emergency Visit—For the purposes of this subchapter, events associated with [hospital] services in an emergency department, [or] emergency room, or a freestanding emergency medical care facility.

(36) [373] Patient account number—A number assigned to each patient by the facility, which appears on each computer record in a patient event claim. This number is not consistent for a given patient from one facility to the next, or from one admission to the next in the same facility. DSHS will delete or encrypt this number to protect patient confidentiality prior to release of data.

(37) [383] Physician—An individual licensed under the laws of this state to practice medicine under the Medical Practice Act, Occupations Code, Chapter 151 et seq.

(38) [393] Provider—For the purposes of this subchapter, a physician or facility.

(39) [403] Public use data file—For the purposes of this subchapter, a data file composed of encounter or event claims which have been altered by the deletion, encryption or other modification of data fields to protect patient and physician confidentiality and to satisfy other restrictions on the release of data imposed by statute.

(40) [413] Race—A division of patients according to traits that are transmissible by descent and sufficient to characterize them as distinctly human types. Facilities shall report this data element according to the following racial types: American Indian, Eskimo, or Aleut; Asian or Pacific Islander; Black; White; or Other.

(41) [423] Required minimum data set—The list of data elements for which facilities may submit an event claim for each patient event occurring in the facility. The required minimum data sets are specified in §421.77(d) of this title. This list does not include all the data elements that are required by the modified ANSI 837 Institutional Guide to submit an acceptable event file. For example: Interchange Control Headers and Trailers, Functional Group Headers and Trailers, Transaction Set Headers and Trailers and Qualifying Codes (which identify or qualify subsequent data elements).

(42) [433] Research data file—A customized data file, which may include the data elements in the public use file and may include data elements other than the required minimum data set submitted to DSHS, except those data elements that could reasonably identify a patient or physician, except as authorized by law.

(43) [443] Submission—The transfer of a set of computer records as specified in §421.77 of this title that constitutes the event file for one or more reporting hospitals under this subchapter.

(44) [453] Submitter—The person or organization, which physically prepares an event file for one or more facilities and submits them under this subchapter. A submitter may be a facility or an agent designated by a facility or its owner.

(45) [463] THCIC Identification Number—A string of six characters assigned by DSHS to identify facilities for reporting and tracking purposes. For a facility operating multiple facility locations under one license number and duplicating services at those locations, DSHS will assign a distinguishable identifier for each separate facility location under one license number. The relationship of the identifier to the name and license number of the facility is public information.

(46) [473] Uniform patient identifier—A unique identifier assigned by DSHS to an individual patient and composed of numeric, alpha, or alphanumeric characters, which remains constant across facilities and patient events. The relationship of the identifier to the patient-specific data elements used to assign it is confidential.

(47) [483] Uniform physician identifier—A unique identifier assigned by DSHS to a physician or other health professional who is reported as attending, operating or other provider providing health care services or treating a patient in a facility and which remains constant across facilities. The relationship of the identifier to the physician-specific data elements used to assign it is confidential. The uniform physician identifier shall consist of alphanumeric characters.

(48) [493] Universal Resource Locator (URL)—A specific set of ordered characters to identify a unique resource location (address) on the Internet or World Wide Web.

(49) [503] Validation—The process by which a provider verifies the accuracy and completeness of data and corrects any errors identified before certification.


(a) Each facility in operation for all or any of the reporting periods described in §421.73 of this title (relating to Schedule for Filing Event Files) shall submit to DSHS [outpatient] emergency visit [event] claims as specified in §421.77 of this title (relating to Event Files—Records, Data Fields and Codes) on all emergency visit patients in which the patient received one or more emergency services covered by the revenue codes specified in §421.77(c) of this title. All facilities that are exempt under Texas Health and Safety Code, Chapter 108, which choose to participate in reporting under this subchapter, shall comply with the requirements in this subchapter. To the extent the medical screening examination, triage, observation, diagnosis or treatment is made by a health professional other than a physician, data elements specified in §421.77(d)(25) - (30) of this title shall be filed accordingly or data elements in §421.77(d)(26) or (29) of this title in the modified ANSI 837 Institutional Guide shall be marked with one of DSHS approved temporary "Physician" or "Other health professional" code numbers and data elements in §421.77(d)(28)(A) - (C) of this title in the ANSI 837 Institutional Guide format may be left blank.

(b) All [outpatient] emergency visit events in which the patient received one or more of the emergency services covered by the revenue codes specified in §421.77(e) of this title shall be reported by the facility that prepares one or more bills for patient services. The facility shall submit an event claim corresponding to each bill containing the data elements required by §421.77 of this title. For all patients who received one or more emergency services [service covered by the revenue codes specified in §421.77(e) of this title] for which the facility
does not prepare a bill for patient services, the facility shall submit an event claim containing the required minimum data set.

(c) Each facility shall submit event files by electronic filing unless the facility receives an exemption letter from DSHS.

(d) Each facility shall submit event claims and event files in the format specified in §421.77 of this title.

(e) Each facility shall submit event files, data certifications and other required information to DSHS or its agents at physical, universal resource locator (URL) addresses or telephonic addresses specified by DSHS. DSHS shall notify all facilities and submitters in writing and by publication in the Texas Register at least 30 calendar days before any change in the addresses.

(f) Each facility may submit event files, or may designate an agent to submit the event files. If a facility designates an agent, it shall inform DSHS of the designation in writing at least 30 calendar days prior to the agent's submission of any discharge report. The facility shall inform DSHS in writing at least 30 calendar days prior to changing agents or making the submissions itself.

§421.77. Event Files--Records, Data Fields and Codes.

(a) Facilities shall submit event files electronically in the file format for emergency visit [outpatient] bills defined by ANSI, commonly known as the ANSI ASC X12N form 837 Health Care Claims transaction for institutional claims. ANSI updates these formats from time to time by issuing new versions and the United States Department of Health and Human Services adopts regulations regarding HIPAA that update the version allowed for claim submissions.

(b) DSHS will make detailed specifications for these data elements available to submitters and to the public.

(c) In addition to the data elements contained in the ANSI 837 Institutional Guide, DSHS has specified the location where additional data elements shall be reported in the ANSI 837 Institutional Guide format. These are specified in §421.67(c) of this title (relating to Event Files--Records, Data Fields and Codes.)

(d) Facilities shall submit the required minimum data set in the following modified ANSI 837 Institutional Guide format for all patients that are uninsured or considered self-pay or covered by third party payers in which the payer requires the claim be submitted in an ANSI 837 Institutional Guide format for which an event claim is required by this subchapter. The required minimum data set for the modified (as specified in subsection (c) of this section) ANSI 837 Institutional Guide format includes the following data elements as listed in this subsection:

1. **Patient Name:**
   - (A) Patient Last Name;
   - (B) Patient First Name; and
   - (C) Patient Middle Initial.

2. **Patient Address:**
   - (A) Patient Address Line 1;
   - (B) Patient Address Line 2 (if applicable);
   - (C) Patient City;
   - (D) Patient State;
   - (E) Patient ZIP; and
   - (F) Patient Country (if address is not in United States of America, or one of its territories).

3. **Patient Birth Date;**

4. **Patient Sex;**

5. **Patient Race;**

6. **Patient Ethnicity;**

7. **Patient Social Security Number;**

8. **Patient Account Number;**

9. **Patient Medical Record Number;**

10. **Claim Filing Indicator Code (primary and secondary);**

11. **Payer Name - Primary and secondary (if applicable, for both);**

12. **National Plan Identifier - for primary and secondary (if applicable) payers (National Health Plan Identification number, if applicable and when assigned by the Federal Government);**

13. **Type of Bill (Facility Type Code plus Claim Frequency Code);**

14. **Statement Dates;**

15. **Principal Diagnosis;**

16. **Patient's Reason for Visit;**

17. **External Cause of Injury (E-Code) up to 10 occurrences (if applicable);**

18. **Other Diagnosis Codes - up to 24 occurrences (all applicable);**

19. **Occurrence Code - up to 24 occurrences (if applicable);**

20. **Occurrence Code Associated Date - up to 24 occurrences (if applicable);**

21. **Value Code - up to 24 occurrences (if applicable);**

22. **Value Code Associated Amount - up to 24 occurrences (if applicable);**

23. **Condition Code - up to 24 occurrences (if applicable);**

24. **Related Cause Code - up to 3 occurrences (if applicable);**

25. **Attending Physician or Attending Practitioner Name (if applicable):**
   - (A) Attending Practitioner Last Name;
   - (B) Attending Practitioner First Name; and
   - (C) Attending Practitioner Middle Initial.

26. **Attending Practitioner Primary Identifier (National Provider Identifier) (if applicable);**

27. **Attending Practitioner Secondary Identifier (Texas state license number) (if applicable);**

28. **Operating Physician or Other Health Professional Name (if applicable):**
   - (A) Operating Physician or Other Health Professional Last Name;
   - (B) Operating Physician or Other Health Professional First Name; and
   - (C) Operating Physician or Other Health Professional Middle Initial.
(29) Operating Physician or Other Health Professional Primary Identifier (National Provider Identifier) (if applicable);

(30) Operating Physician or Other Health Professional Secondary Identifier (Texas state license number) (if applicable);

(31) Total Claim Charges;

(32) Revenue Service Line Details (up to 999 service lines) (all applicable);

(A) Revenue Code;

(B) Procedure Code;

(C) HCPCS Procedure Modifier 1 (applicable to each submitted Procedure code);

(D) HCPCS Procedure Modifier 2 (applicable to each submitted Procedure code);

(E) HCPCS Procedure Modifier 3 (applicable to each submitted Procedure code);

(F) HCPCS Procedure Modifier 4 (applicable to each submitted Procedure code);

(G) Charge Amount;

(H) Unit Code;

(I) Unit Quantity;

(J) Unit Rate; and

(K) Non-covered Charge Amount.

(33) Service Line Date;

(34) Service Provider Name;

(35) Service Provider Primary Identifier - Provider Federal Tax ID (EIN) or National Provider Identifier;

(36) Service Provider Address:

(A) Service Provider Address Line 1;

(B) Service Provider Address Line 2 (if applicable);

(C) Service Provider City;

(D) Service Provider State; and

(E) Service Provider ZIP; and

(37) Service Provider Secondary Identifier - THCIC 6-digit facility ID assigned to each facility;

(38) Point of Origin (Source of Admission); and

(39) Patient Status.

(e) Facilities shall submit the required minimum data set to DSHS for each patient who has one or more of the following revenue codes in this subsection. Facilities operating in the State of Texas shall submit the required data elements as specified in subsection (d) of this section relating to the revenue codes in this subsection.

1. 0450 Emergency Room--General Classification;

2. 0451 Emergency Room--EMTALA Medical Screening;

3. 0452 Emergency Room--Emergency Room beyond EMTALA;

4. 0456 Emergency Room--Urgent Care; and

5. 0459 Emergency Room--Other Emergency Room;

(f) This section is effective 90 calendar days after being published in the Texas Register.


(a) DSHS records are public records under Government Code, Chapter 552, except as specifically exempted by Texas Health and Safety Code, §§108.010, 108.011 and 108.013 or other state or federal law. Copies of such records may be obtained upon request and upon payment of user fees established by DSHS. Event claims in any format as submitted to DSHS are not available to the public and are exempt from disclosure pursuant to Texas Health and Safety Code, §§108.010, 108.011 and 108.013, and shall not be released. Likewise, patient and physician identifying data collected by the DSHS through editing of facility data shall not be released.

(b) Creation of codes and identifiers. DSHS shall develop the following codes and identifiers, as listed in paragraphs (1) - (2) of this subsection, required for creation of the public use data file and for other purposes.

1. DSHS shall create a process for assigning uniform patient identifiers, uniform physician identifiers and uniform other health professional identifiers using data elements collected. This process is confidential and not subject to public disclosure. Any documents or records produced describing the process or disclosing the person associated with an identifier are confidential and not subject to public disclosure.

2. DSHS shall create a process for assigning geographic identifiers to each event record.

(c) The data elements specified for [outpatient] emergency visit [event] reports in this section do not constitute "Provider Quality Data" as discussed in Texas Health and Safety Code, §108.010.

(d) Creation of public use data file. DSHS will create a public use data file by creating a single record for each reportable [outpatient] emergency visit [event] and adding, modifying, or deleting data elements in the following manner as listed in this subsection:

1. delete patient and insured name, Social Security number, address and certificate data elements, any patient identifying information, and patient control and medical record numbers;

2. convert patient birth date to age;

3. convert procedure dates to a code for the day of the week;

4. convert occurrence dates to day values;

5. delete physician and other health professional names and numbers and assign an alphanumeric uniform physician identifier for the physicians and other health professionals who were reported as "Attending," or "operating or other" on patients;

6. assign codes indicating the primary and secondary sources of payment;

7. suppress the record level data elements in a way that the aggregate numbers for a facility or geographic region for that data element is below the number five. Five is the established minimum cell size required by Texas Health and Safety Code, §108.011(i), unless DSHS determines that a higher cell size is required to protect the confidentiality of an individual patient or physician;

8. convert all procedure codes to HCPCS codes (in the version that is current for the date the data was due to be submitted or the version in effect at the date of service);
add nationally accepted risk and severity adjustment scores utilizing an algorithm approved by DS HS, when applicable; (10) include the following data elements in the public use data file, unless the data element needs to be suppressed for patient or physician confidentiality as noted under paragraph (7) of this subsection:

(A) Event Year and Quarter;
(B) Provider Name (Facility Name);
(C) THHC Identification Number;
(D) Facility Type Indicators;
(E) Patient Sex/Gender;
(F) Patient ZIP Code;
(G) County Code;
(H) Health Service Region Code;
(I) Patient State;
(J) Patient Race;
(K) Patient Ethnicity;
(L) Claim Type Indicator;
(M) Type of Bill;
(N) Principal Diagnosis Code (Current version of ICD codes at the time data is submitted);
(O) Other Diagnosis Codes (Up to 24 diagnosis codes can be submitted and reported. Current version of ICD codes at the time data is submitted);
(P) Procedure codes (Up to 24 procedure codes can be submitted and reported. Current version of HCPCS codes at the time data is submitted);
(Q) Reason For Visit (Current version of ICD or HCPCS codes at the time data is submitted);
(R) External Cause of Injury (E-codes), (if applicable) (Current version of ICD codes at the time data is submitted. Up to nine (9) E-codes can be submitted and reported);
(S) Related Cause Code, (if applicable) (Up to three (3) codes can be submitted and reported);
(T) Day of Week Patient is provided services code (Sunday = 1, Monday = 2, Tuesday = 3, Wednesday = 4, Thursday = 5, Friday = 6, Saturday = 7);
(U) Age group of the patient;
(V) APG Code (Obtained from 3M™ [3M] APG grouper) if applicable (Up to 10);
(W) APG Category Code (Obtained from 3M™ [3M] APG grouper) if applicable (Up to 10);
(X) APG Type Code (Obtained from 3M™ [3M] APG grouper) if applicable (Up to 10);
(Y) Final APG Assignment Code (Obtained from 3M™ [3M] APG grouper) if applicable (Up to 10);
(Z) Final APG Category Code (Obtained from 3M™ [3M] APG grouper) if applicable (Up to 10);
(AA) APC Procedure Code (if applicable) (Up to 10);

(BB) APC Procedure Status Indicator Code (if applicable) (Up to 10);
(CC) APC Diagnosis Edits (if applicable) (Up to 10);
(DD) APC Procedure Code Edits (if applicable) (Up to 10);
(EE) APC Weight (if applicable) (Up to 10);
(FF) APC Base Procedure (if applicable) (Up to 10);
(GG) Clinical Classification Software Category Codes and associated codes, if applicable;
(HH) Uniform Physician Identifier assigned to Rendering Physician or Rendering Other Health Professional;
(II) Uniform Physician Identifier assigned to Operating Physician or Other Physician or Other Health Professional;
(JJ) Uniform Physician Identifier assigned to Other Provider or Other Health Professional;
(KK) Ancillary Service--Other Charges;
(LL) Ancillary Service--Pharmacy Charges;
(MM) Ancillary Service--Medical/Surgical Supply Charges;
(NN) Ancillary Service--Durable Medical Equipment Charges;
(OO) Ancillary Service--Used Durable Medical Equipment Charges;
(PP) Ancillary Service--Physical Therapy Charges;
(QQ) Ancillary Service--Occupational Therapy Charges;
(RR) Ancillary Service--Speech Pathology Charges;
(SS) Ancillary Service--Inhalation Therapy Charges;
(TT) Ancillary Service--Blood Charges;
(UU) Ancillary Service--Blood Administration Charges;
(VV) Ancillary Service--Operating Room Charges;
(WW) Ancillary Service--Lithotripsy Charges;
(xx) Ancillary Service--Cardiology Charges;
(yy) Ancillary Service--Anesthesia Charges;
(zz) Ancillary Service--Laboratory Charges;
(Aaa) Ancillary Service--Radiology Charges;
(BBB) Ancillary Service--MRI Charges;
(CCC) Ancillary Service--Outpatient Services Charges;
(ddd) Ancillary Service--Emergency Service Charges;
(EEE) Ancillary Service--Ambulance Charges;
(FFF) Ancillary Service--Professional Fees Charges;
(GGG) Ancillary Service--Organ Acquisition Charges;
(HHH) Ancillary Service--ESRD Revenue Setting Charges;
(III) Ancillary Service--Clinic Visit Charges;
The proposal submitted 700.473, Subchapter encounter Family 700.461, TRD-202000778 For PART 700.509, Department 700.555, adopted. further with possible and L. on PROTECTIVE 85th the in 19.


BACKGROUND AND PURPOSE

Through the enactment of House Bill (HB) 5 and Senate Bill (SB) 11, 85th Legislature, R.S. (2017), the Texas Department of Family and Protective Services (DFPS) became a stand-alone agency on September 1, 2017, separate from the Texas Health and Human Services Commission (HHSC) but for the provision of various administrative support services as provided in Government Code § 531.00553. This entailed internal reorganization of certain programs and divisions within DFPS as well as consolidation of other DFPS functions and programs into HHSC. Specifically, HB 5, HB 249, and SB 11 amended the Government Code, Texas Family Code (TFC), and Human Resources Code (HRC) to effectuate transfer of the Child Care Licensing regulatory program from DFPS to HHSC while keeping the function of investigating abuse, neglect, and exploitation in child care operations at DFPS. HB 5 also mandated DFPS to create a division to oversee all investigations concerning abuse, neglect, and exploitation of children. Consequently, the following three investigative functions were moved under the new Child Protective Investigations (CPI) division: (1) investigations of child abuse, neglect, and exploitation in childcare operations, which are now conducted by the Child Care Investigations (CCI) program but were formerly under Child Care Licensing; (2) child protective services investigations, which are now conducted by the Investigations program but were formerly under Child Protective Services (CPS); and (3) special investigations, which are conducted by the Special Investigations (SI) program but were formerly under CPS.

As such, the overarching purpose of the rule changes is to create new chapter 707 in Title 40, Part 19, of the Texas Administrative Code that contains the rules for the CPI division of DFPS. As the division consists of functions that were already in existence in DFPS, the rule updates entail transferring already existing rules into this new chapter and further amending such rules to reflect the agency’s new structure and new processes post 85th legislative session. This new chapter will include the investigation rules for traditional child protective services investigation and alternative response (formerly in 40 TAC 700, Subchapter E); rules relating to school investigations which are now handled by the SI program (formerly in 40 TAC 700, Subchapter D); and rules for investigations in child-care operations conducted by CCI (formerly in 40 TAC 745, Subchapters K and M).

SECTION-BY-SECTION SUMMARY

Section 700.401 is being repealed. The content has been incorporated in new §707.599 with minor, non-substantive edits.

Section 700.402 is being repealed. The content has been incorporated in new §707.451 and §707.605, concerning the terms and definitions used in or relevant to understanding how the Special Investigations program conducts school investigations with minor, non-substantive edits.

Section 700.403 is being repealed. The content has been incorporated in new §707.607, concerning how DFPS defines child abuse and neglect for purposes of a school investigation with minor, non-substantive edits.

Section 700.404 is being repealed. The content has been incorporated in new §707.609, concerning when DFPS assigns a report of child alleged abuse or neglect occurring in a school setting for investigation with minor, non-substantive edits.

Section 700.405 is being repealed. The content has been incorporated in new §707.611, concerning notifications to law enforcement of reports of child alleged abuse or neglect occurring in a school setting with minor, non-substantive edits.

Section 700.406 is being repealed. The content has been incorporated in new §707.613, concerning priority timeframes for
Section 700.407 is being repealed. The content has been incorporated in new §707.615, concerning notification to certain school personnel prior to initiation of a school investigation, with edits to reflect new statutory requirements from Texas Family Code §261.105(d) enacted pursuant to Senate Bill 1231 from the 86th Legislature, R.S. (2019), which requires that in addition to notifying the school principal of the investigation, the Special Investigator must also notify the superintendent of the school district, and as relevant, the director of a charter school and chief executive officer of a private school if the alleged perpetrator is an employee of a charter or private school.

Section 700.408 is being repealed. The content has been incorporated in new §707.617, concerning the conduct of a school investigation with minor, non-substantive edits.

Section 700.409 is being repealed. The content has been incorporated in new §707.619, concerning the procedures for interviews and examinations conducted during the course of a school investigation with edits to clarify that if the school is not under the jurisdiction of the Texas Education Agency, DFPS must have consent or a court order to conduct the interview and visual inspection of the child unless DFPS has a reason to believe that the child is in immediate danger of physical or sexual abuse.

Section 700.410 is being repealed. The content has been incorporated in new §707.621, concerning assignment of dispositions and roles to persons involved in the investigation at the completion of the investigation, with minor, non-substantive edits.

Section 700.411 is being repealed. The content has been incorporated in new §707.623, concerning notification to certain school personnel at the completion of the investigation with edits to reflect new statutory requirements from Texas Family Code §261.406(b) pursuant to Senate Bill 1231 from the 86th Legislature, R.S. (2019), which requires that after the completion of an investigation concerning an employee of a private school, DFPS provide a report of the investigation, redacted to remove the identity of the reporter, to the chief executive officer of the school unless the chief executive officer is the alleged perpetrator.

Section 700.412 is being repealed. The content has been incorporated in new §707.625, concerning notification of the completion of a school investigation to non-school entities with minor, non-substantive edits.

Section 700.451 is being repealed because the rule content is now obsolete.

Section 700.453 is being repealed. The content has been incorporated in new §707.453, concerning emotional abuse with minor, non-substantive edits.

Section 700.455 is being repealed. The content has been incorporated in new §707.455, concerning physical abuse with minor, non-substantive edits.

Section 700.457 is being repealed. The content has been incorporated in new §707.457, concerning sexual abuse with minor, non-substantive edits.

Section 700.459 is being repealed. The content has been incorporated in new §707.459, concerning labor trafficking with minor, non-substantive edits.

Section 700.461 is being repealed. The content has been incorporated in new §707.461, concerning sex trafficking with minor, non-substantive edits.

Section 700.463 is being repealed. The content has been incorporated in new §707.465, concerning abandonment with minor, non-substantive edits.

Section 700.465 is being repealed. The content has been incorporated in new §707.467, concerning neglectful supervision with minor, non-substantive edits.

Section 700.467 is being repealed. The content has been incorporated in new §707.469, concerning medical neglect and investigations involving lack of medical care because of religious beliefs, with minor, non-substantive edits.

Section 700.469 is being repealed. The content has been incorporated in new §707.471, concerning physical neglect with minor, non-substantive edits.

Section 700.471 is being repealed. The content has been incorporated in new §707.473, concerning refusal to accept parental responsibility and dispositioning of cases concerning a child with a severe emotional disturbance with minor, non-substantive edits.

Section 700.473 is being repealed. The content has been incorporated in new §707.475, concerning refusal to accept parental responsibility and dispositioning of cases concerning a child with a severe emotional disturbance with minor, non-substantive edits.

Section 700.475 is being repealed. The content has been incorporated in new §707.477, concerning investigations involving domestic violence with minor edits to clarify when DFPS will designate a perpetrator of domestic violence as a perpetrator of child abuse or neglect.

Section 700.477 is being repealed. The content has been incorporated in new §707.451, concerning the terms used in or relevant to understanding the abuse and neglect definitions used by the Investigations program.

Section 700.479 is being repealed. The content has been incorporated in new §707.481, concerning receipt of child abuse and neglect reports by the Statewide Intake division of DFPS with minor, non-substantive edits.

Section 700.481 is being repealed. The content has been incorporated in new §707.483, concerning reports that DFPS does not classify as child abuse or neglect with minor, non-substantive edits.

Section 700.505 is being repealed. The content has been incorporated in new §707.485, concerning priority timeframes for responding to reports of child abuse and neglect with minor, non-substantive edits.

Section 700.506 is being repealed. The content has been incorporated in new §707.487, concerning notification to law enforcement of reports of child abuse and neglect with minor, non-substantive edits.

Section 700.507 is being repealed. The content has been incorporated in new §707.489, concerning the types of actions DFPS may take on a report of child abuse and neglect, but is being updated to reflect new statutory requirements from Texas Family Code §261.3017, pursuant to Senate Bill 190 from the 85th Legislature, R.S. (2017), which: (1) permits DFPS to conduct an abbreviated investigation or administratively close an investiga-
tion that has been open for less than 60 days if certain criteria is met as specified in the rule; and (2) requires DFPS to administratively closes an investigation that has been open for more than 60 days if certain criteria has been met, as specified in the rule.

Section 700.508 is being repealed. The content has been incorporated in new §707.491, concerning applicable procedures when an investigator makes initial contact with and interviews a parent or an alleged perpetrator during an investigation with edits to make the rule text consistent with the federal Child Abuse Prevention and Treatment Act (CAPTA). Specifically, the new rule clarifies the actions the investigator must take at first contact with the parent or alleged perpetrator regardless of whether the contact is in person or via phone and the actions that the investigator must take during the first in-person contact.

Section 700.509 is being repealed. The content has been incorporated in new §707.493, concerning payment of medical exams by DFPS during an investigation but is being amended to delete outdated information concerning when Medicaid may pay for medical examinations and when DFPS may purchase medical examinations for a child during an investigation.

Section 700.511 is being repealed. The content has been incorporated in new §707.495, concerning disposition of abuse and neglect cases at the completion of the investigation with minor, non-substantive edits.

Section 700.512 is being repealed. The content has been incorporated in new §707.497, concerning the roles DFPS assigns to persons involved in an investigation with minor, non-substantive edits.

Section 700.513 is being repealed. The content has been incorporated in new §707.499, concerning notifications of investigation results to entitled persons but is being updated to reflect that DFPS may send a notice of findings letter for an alleged perpetrator who is a minor to the parents or another person with primary or legal responsibility.

Section 700.514 is being repealed. The content has been incorporated in new §707.501, concerning risk and safety assessments conducted during the course of an investigation, but is being rewritten to reflect when and under what circumstances DFPS assesses risk and safety and that DFPS uses the Structured Decision Making (SDM) tool to conduct formal risk and safety assessments for children whose families are involved with DFPS. The rule is also being updated to make clear that DFPS only removes a child when the applicable criteria for removal in Subchapter B of Chapter 262, Texas Family Code, is satisfied.

Section 700.515 is being repealed. The content has been incorporated in new §707.503, concerning DFPS intervention for purposes of providing immediate or short-term protection to a child, with minor edits to reflect current terminology, including updating "evaluation" to "assessment" and "cannot or will not protect" to "unwilling or unable to protect".

Section 700.516 is being repealed. The content has been incorporated in new §707.505, concerning administrative review of investigation findings, but is being updated to: (1) reflect the agency's current practice of granting an administrative review of investigation findings (ARIF) to an individual who was designated as a perpetrator of abuse or neglect as a minor but is requesting an ARIF as an adult, even though the request is not within the ARIF timeframes; and (2) include language concerning good cause exceptions for extending ARIF timeframes, as permitted by Texas Family Code §261.309(d).

Section 700.517 is being repealed. The content has been incorporated in new §707.469, concerning medical neglect and investigations involving lack of medical care because of religious beliefs, with minor, non-substantive edits.

Section 700.518 is being repealed. The content has been incorporated in new §707.507, concerning notification requirements for an investigation on a person that has placement of children in DFPS conservatorship or is a foster or adoptive home with minor edits to reflect that the regional director must consult with a Child Protective Services State Office director prior to deciding that closure is not required based on a determination that there is not a continuing risk of substantial harm to children placed in the home.

Section 700.519 is being repealed. The content has been incorporated in new §707.511, concerning criminal history records checks but is being rewritten to make the rule consistent with Texas Government Code §411.114, the governing state law concerning criminal background checks conducted by the Department of Family and Protective Services, which was amended pursuant to House Bill 4094 from the 85th Legislature, R.S. (2017).

Section 700.521 is being repealed. The content has been incorporated in new §707.515, concerning the roles DFPS assigns to persons involved in an investigation upon receipt of an abuse and neglect report with minor, non-substantive edits.

Section 700.523 is being repealed. The content has been incorporated in new §707.517, concerning the removal of alleged perpetrator role information from DFPS records with minor edits to clarify that a notice for role removal can be sent to the parents of the alleged perpetrator if the individual is a minor.

Section 700.551 is being repealed. The content has been incorporated in new §707.551, concerning the purpose of alternative response interventions with minor, non-substantive edits.

Section 700.553 is being repealed. The content has been incorporated in new §707.553, concerning the types of cases that may be conducted as alternative response but is being updated to clarify that while DFPS does not generally conduct an alternative response when there is a child in the home under the age of six, DFPS will continue handling a case as an alternative response case if after the case is initiated, DFPS learns that a child under the age of six is living in the home, except if there are allegations of physical or sexual abuse.

Section 700.555 is being repealed. The content has been incorporated in new §707.555, concerning when DFPS will conduct a traditional investigation on a case initially assigned for an alternative response with minor, non-substantive edits.

Section 700.557 is being repealed. The content has been incorporated in new §707.557, concerning the Texas Family Code.
provision that governs alternative response cases with minor, non-substantive edits.

Section 700.559 is being repealed. The content has been incorporated in new §707.559, concerning appropriate investigative actions for alternative response cases with minor, non-substantive edits.

Section 700.561 is being repealed. The content has been incorporated in new §707.561, concerning appropriate investigative actions for alternative response cases with minor, non-substantive edits.

Section 700.563 is being repealed. The content has been incorporated in new §707.563, concerning DFPS maintaining written records for alternative response cases with minor, non-substantive edits.

Section 700.565 is being repealed. The content has been incorporated in new §707.565, concerning release and confidentiality of alternative response case records with minor, non-substantive edits.

Section 700.567 is being repealed. The content has been incorporated in new §707.567, concerning actions DFPS takes at the completion of an alternative response case with minor, non-substantive edits.

FISCAL NOTE

David Kinsey, Chief Financial Officer of DFPS, has determined that for each year of the first five years that the repeals will be in effect, there will be no fiscal implications to state or local governments as a result of enforcing and administering the sections as proposed.

GOVERNMENT GROWTH IMPACT STATEMENT

DFPS has determined that during the first five years that the proposed rules will be in effect:

(1) the proposed repeals will not create or eliminate a government program;

(2) implementation of the repeals will not affect the number of employee positions;

(3) implementation of the repeals will not require an increase or decrease in future legislative appropriations to the agency;

(4) the proposed repeals will not affect fees paid to the agency;

(5) the proposed rule actions will create new regulations to the extent that the content from the rules in 40 TAC 700, Subchapters D and E, and 40 TAC 745, Subchapters K and M, is being incorporated with amendments into new rules in new Chapter 707;

(6) the proposed rule action will result in repeal of existing regulations to the extent that the rules from 40 TAC 700, Subchapters D and E, are being repealed and the content of those rules is being incorporated with amendments into new rules in new Chapter 707;

(7) the proposed repeals will not change the number of individuals subject to the rule; and

(8) the proposed repeals will not affect the state’s economy.

SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT ANALYSIS

Mr. Kinsey has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities. The repeals do not apply to small or micro-businesses, or rural communities.

ECONOMIC COSTS TO PERSONS AND IMPACT ON LOCAL EMPLOYMENT

There are no anticipated economic costs to persons who are required to comply with these sections as proposed.

There is no anticipated negative impact on local employment.

COSTS TO REGULATED PERSONS

Pursuant to subsection (c)(7) of Texas Government Code §2001.0045, the statute does not apply to a rule that is adopted by the Department of Family and Protective Services.

PUBLIC BENEFIT

Audrey Carmichael, General Counsel of DFPS, has determined that for each year of the first five years the repeals and proposed new sections in Chapter 707, concerning Child Protective Investigations, are in effective the public benefit anticipated as a result of enforcing the sections is that the public will gain a better understanding of DFPS's Child Protective Investigations division, the different types of child abuse and neglect investigations conducted by DFPS, and the current procedures and protocols that apply to the different types of child abuse and neglect investigations.

REGULATORY ANALYSIS

The department has determined that this proposal is not a "major environmental rule" as defined by Government Code, §2001.0225.

TAKINGS IMPACT ASSESSMENT

DFPS has determined that the proposal does not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking under Government Code, §2007.043.

PUBLIC COMMENT

Comments and questions on this proposal must be submitted within 30 days of publication of the proposal in the Texas Register. Electronic comments and questions may be submitted to RULES@dfps.state.tx.us. Hard copy comments may be submitted to the DFPS Rules Coordinator, Legal Services 18R17, Department of Family and Protective Services E-611, P.O. Box 149030, Austin, Texas 78714-9030.

SUBCHAPTER D. SCHOOL INVESTIGATIONS

40 TAC §§700.401 - 700.412

STATUTORY AUTHORITY

The modification is proposed under Human Resources Code (HRC) §40.027, which provides that the Department of Family and Protective Services commissioner shall oversee the development of rules relating to the matters within the department’s jurisdiction and notwithstanding any other law, shall adopt rules for the operation and provision of services by the department.

The proposed repealed sections implement the Child Abuse Prevention and Treatment Act, Chapters 40 and 42 of the Texas Human Resources Code; Chapter 261 of the Texas Family Code including Texas Family Code § 261.001; and Texas Government Code §531.02013.

§700.401. What is the purpose of Subchapter D of this chapter?
§700.402. What do the terms used in this subchapter mean when Child Protective Services investigates reports of child abuse and neglect in a school?

§700.403. How does the Texas Department of Family and Protective Services define child abuse and neglect for purposes of a school investigation?

§700.404. When does the Texas Department of Family and Protective Services investigate a report of alleged abuse or neglect occurring in a school setting?

§700.405. Who must the Texas Department of Family and Protective Services notify when the agency receives a report of child abuse or neglect in a school setting?

§700.406. What priorities and time frames for initiating school investigations apply?

§700.407. Which school personnel must be notified prior to initiating a school investigation?

§700.408. How does Child Protective Services conduct a school investigation?

§700.409. What procedures apply when Child Protective Services conducts an interview or examination during a school investigation?

§700.410. How does Child Protective Services make dispositions and assign roles in a case after completing the investigation?

§700.411. How does the Texas Department of Family and Protective Services provide notice to school officials when a school investigation is closed?

§700.412. How does the Texas Department of Family and Protective Services provide notice to non-school officials when a school investigation is closed?

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 21, 2020.

TRD-202000739
Audrey Carmichael
General Counsel
Department of Family and Protective Services
Earliest possible date of adoption: April 5, 2020
For further information, please call: (512) 438-3805

SUBCHAPTER E. INTAKE, INVESTIGATION, AND ASSESSMENT

DIVISION 1. INVESTIGATIONS


The modification is proposed under Human Resources Code (HRC) §40.027, which provides that the Department of Family and Protective Services commissioner shall oversee the development of rules relating to the matters within the department's jurisdiction and notwithstanding any other law, shall adopt rules for the operation and provision of services by the department.

The proposed repealed sections implement the Child Abuse Prevention and Treatment Act, Chapters 40 and 42 of the Texas Human Resources Code; Chapter 261 of the Texas Family Code including Texas Family Code § 261.001; and Texas Government Code § 531.02013.

§700.451. What definitions does the Child Protective Services division use in reports and investigations of abuse or neglect?

§700.453. What is emotional abuse?

§700.455. What is physical abuse?

§700.457. What is sexual abuse?

§700.459. What is labor trafficking?

§700.461. What is sex trafficking?

§700.463. What is abandonment?

§700.465. What is neglectful supervision?

§700.467. What is medical neglect?

§700.469. What is physical neglect?

§700.471. What is refusal to assume parental responsibility (RAPR)?

§700.473. How does DFPS disposition cases in which the allegations are based solely on the inability of the person responsible for a child's care, custody, or welfare to obtain mental health services necessary to protect the safety and well-being of the children?

§700.475. When is a person who is responsible for a child's care, custody, or welfare considered an alleged perpetrator of emotional abuse, physical abuse, or neglectful supervision in a case of domestic violence?

§700.477. What do the following additional terms mean?

§700.479. What are the responsibilities of the Department of Family and Protective Services (DFPS) in receiving reports of child abuse or neglect?

§700.481. Are there certain allegations the Department of Family and Protective Services does not classify as reports of abuse or neglect?

§700.505. Priorities for Reports of Abuse and Neglect.

§700.506. Notification of Law Enforcement Agencies.

§700.507. Response to Allegations of Abuse or Neglect.

§700.508. Interviews with Parents or Other Alleged Perpetrators.

§700.509. Purchase of Medical, Psychological, or Psychiatric Examinations.

§700.511. Disposition of the Allegations of Abuse or Neglect.

§700.512. Conclusions About Roles.

§700.513. Notification about Results.

§700.514. Risk Assessment and Safety Evaluation.

§700.515. Providing Immediate or Short-Term Protection.


§700.517. Investigation of Lack of Medical Care Because of Religious Beliefs.

§700.518. Texas Department of Protective and Regulatory Services (TDPRS) Managing Conservatorship of Children in TDPRS Regulated Care.

§700.519. Standards for Investigators of Child Abuse.

§700.520. Criminal Records Checks.

§700.521. Roles Alleged at Intake.

§700.523. Removal of Alleged Perpetrator Role Information.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.
DIVISION 2. ALTERNATIVE RESPONSE

40 TAC §§700.551, 700.553, 700.555, 700.557, 700.559, 700.561, 700.563, 700.565, 700.567

The modification is proposed under Human Resources Code (HRC) §40.027, which provides that the Department of Family and Protective Services commissioner shall oversee the development of rules relating to the matters within the department's jurisdiction and notwithstanding any other law, shall adopt rules for the operation and provision of services by the department.

The proposed repealed sections implement the Child Abuse Prevention and Treatment Act, Chapters 40 and 42 of the Texas Human Resources Code; Chapter 261 of the Texas Family Code including Texas Family Code §261.001; and Texas Government Code §531.02013.

§700.551. What is alternative response?

§700.553. Which cases may be conducted as an alternative response?

§700.555. Can a case initially assigned for an alternative response be conducted as an investigation?

§700.557. Which provisions govern the conduct of an alternative response?

§700.559. What are the basic components of an alternative response?

§700.561. What investigative actions may DFPS staff conducting an alternative response take?

§700.563. Does DFPS maintain written records from an alternative response?

§700.565. What provisions govern the release and maintenance of records generated in conjunction with an alternative response?

§700.567. What occurs when an alternative response is complete?

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Background and Purpose

Through the enactment of House Bill (HB) 5 and Senate Bill (SB) 11, 85th Legislature, R.S. (2017), the Texas Department of Family and Protective Services (DFPS) became a stand-alone agency on September 1, 2017, separate from the Texas Health and Human Services Commission (HHSC) but for the provision of various administrative support services as provided in Government Code § 531.00553. This entailed internal reorganization of certain programs and divisions within DFPS as well as consolidation of other DFPS functions and programs into HHSC. Specifically, HB 5, HB 249, and SB 11 amended the Government Code, Texas Family Code (TFC), and Human Resources Code (HRC) to effectuate transfer of the Child Care Licensing regulatory program from DFPS to HHSC while keeping the function of investigating abuse, neglect, and exploitation in child care operations at DFPS. HB 5 also mandated DFPS to create a division to oversee all investigations concerning abuse, neglect, and exploitation of children. Consequently, the following three investigative functions were moved under the new Child Protective Investigations (CPI) division: (1) investigations of child abuse, neglect, and exploitation in childcare operations, which are now conducted by the Child Care Investigations (CCI) program but were formerly under Child Care Licensing; (2) child protective services investigations, which are now conducted by the Investigations program but were formerly under Child Protective Services (CPS); and (3) special investigations, which are conducted by the Special Investigations (SI) program but were formerly under CPS.

As such, the overarching purpose of the rule changes is to create new chapter 707 in Title 40, Part 19, of the Texas Administrative Code that contains the rules for the CPI division of DFPS. As the division consists of functions that were already in existence in DFPS, the rule updates entail transferring already existing rules into this new chapter and further amending such rules to reflect the agency's new structure and new processes post 85th legislative session. This new chapter will include the investigation rules for traditional child protective services investigation and alternative response (formerly in 40 TAC 700, Subchapter E); rules relating to school investigations which are now handled by the SI program (formerly in 40 TAC 700, Subchapter D); and rules for investigations in child-care operations conducted by CCI (formerly in 40 TAC 745, Subchapters K and M).
Specifically regarding CCI, the rule updates reflect how CCI abuse, neglect, and exploitation investigations are conducted as of September 1, 2017 pursuant to the transfer of CCL regulatory functions to HHSC. Finally, the CCI abuse, neglect, and exploitation rules are also being updated to reflect how CCI investigates allegations of abuse, neglect, and exploitation using the definitions in Texas Family Code § 261.001 that formerly applied only to child protective services investigations. Rule changes regarding the abuse, neglect, and exploitation definitions implement HB 249 and SB 11, which directed DFPS to use standardized definitions and processes for both, child-care investigations and child protective services investigations.

SECTION-BY-SECTION SUMMARY

New §707.447 explains and defines the terminology used in new Division 1, Subchapter A, Chapter 707, concerning the Investigation program rules.

New §707.449 specifies that the purpose of Chapter 707, Subchapter A, Division 1 is to describe procedures for the report, investigation, and review of reports alleging abuse and neglect of a child by a person responsible for the child's care, custody, or welfare. In addition, the rule specifies that the rules in this division concerning the definitions of abuse and neglect are intended to further supplement and clarify the statutory definitions of abuse and neglect in Texas Family Code §261.001.

New §707.451 consolidates into one rule, the terms and definitions used in or relevant to understanding the abuse and neglect definitions used by the Investigations program, including terms and definitions from former Child Protective Services rules §§700.402, 700.451, 700.455, and 700.477, with minor edits to the definitions of: (1) "absent parent or non-custodial parent" to reflect when a parent is considered a non-custodial or absent parent; (2) "household" to clarify that if a child's parents reside separately, the child's household includes both parents' households; and (3) "strengths" to clarify that the term reflects the resources and conditions a family has that increases their ability to protect the child but does not fully address dangers to the child. The new rule also includes the following new terms and corresponding definitions: (1) "danger" and (2) "protective actions".

New §707.453 incorporates the content from former Child Protective Services rule §700.453 concerning emotional abuse with minor, non-substantive edits.

New §707.455 incorporates the content from former Child Protective Services rule §700.455 concerning physical abuse with minor, non-substantive edits.

New §707.457 incorporates the content from former Child Protective Services rule §700.457 concerning sexual abuse with minor, non-substantive edits.

New §707.459 incorporates the content from former Child Protective Services rule §700.459 concerning labor trafficking with minor, non-substantive edits.

New §707.461 incorporates the content from former Child Protective Services rule §700.461 concerning sex trafficking with minor, non-substantive edits.

New §707.463 reiterates the statutory definition of forced marriage, a type of abuse that was added to Texas Family Code §261.001(1) pursuant to HB 249 during the 85th Legislature, R.S. (2017).

New §707.465 incorporates the content from former Child Protective Services rule §700.463 concerning abandonment with minor, non-substantive edits.

New §707.467 incorporates the content from former Child Protective Services rule §700.465 concerning neglectful supervision with minor, non-substantive edits.

New §707.469 incorporates the content from former Child Protective Services rules §700.467 and §700.517 concerning medical neglect and investigations involving lack of medical care because of religious beliefs, with minor, non-substantive edits.

New §707.471 incorporates the content from former Child Protective Services rule §700.469 concerning physical neglect with minor, non-substantive edits.

New §707.473 incorporates the content from former Child Protective Services rules §700.471 and §700.473 concerning refusal to accept parental responsibility and dispositioning of cases concerning a child with a severe emotional disturbance with minor, non-substantive edits.

New §707.477 incorporates the content from former Child Protective Services rule §700.475 concerning investigations involving domestic violence with minor edits to clarify when DFPS will designate a perpetrator of domestic violence as a perpetrator of child abuse or neglect.

New §707.481 incorporates the content from former Child Protective Services rule §700.479 concerning receipt of child abuse and neglect reports by the Statewide Intake division of DFPS with minor, non-substantive edits.

New §707.483 incorporates the content from former Child Protective Services rule §700.481 concerning reports that DFPS does not classify as child abuse or neglect with minor, non-substantive edits.

New §707.485 incorporates the content from former Child Protective Services rule §700.505 concerning priority timeframes for responding to reports of child abuse and neglect with minor, non-substantive edits.

New §707.487 incorporates the content from former Child Protective Services rule §700.506 concerning notification to law enforcement of reports of child abuse and neglect with minor, non-substantive edits.

New §707.489 incorporates the content from former Child Protective Services rule §700.507 concerning the types of actions DFPS may take on a report of child abuse and neglect, but is being updated to reflect new statutory requirements from Texas Family Code §261.3017, pursuant to Senate Bill 190 from the 85th Legislature, R.S. (2017), which: (1) permits DFPS to conduct an abbreviated investigation or administratively close an investigation that has been open for less than 60 days if certain criteria is met as specified in the rule; and (2) requires DFPS to administratively closes an investigation that has been open for more than 60 days if certain criteria has been met, as specified in the rule.

New §707.491 incorporates the content from former Child Protective Services rule §700.508 concerning applicable procedures when an investigator makes initial contact with and interviews a parent or an alleged perpetrator during an investigation with edits to make the rule text consistent with the federal Child Abuse Prevention and Treatment Act (CAPTA). Specifically, the new rule clarifies the actions the investigator must take at first contact with the parent or alleged perpetrator.
regardless of whether the contact is in person or via phone and the actions that the investigator must take during the first in-person contact.

New §707.493 incorporates the content from former Child Protective Services rule §700.509 concerning payment of medical exams by DFPS during an investigation but is being amended to delete outdated information concerning when Medicaid may pay for medical examinations and when DFPS may purchase medical examinations for a child during an investigation.

New §707.495 incorporates the content from former Child Protective Services rule §700.511 concerning dispositioning of abuse and neglect cases at the completion of the investigation with minor, non-substantive edits.

New §707.497 incorporates the content from former Child Protective Services rule §700.512 concerning the roles DFPS assigns to persons involved in an investigation with minor, non-substantive edits.

New §707.499 incorporates the content from former Child Protective Services rule §700.513 concerning notifications of investigation results to entitled persons but is being updated to reflect that DFPS may send a notice of findings letter for an alleged perpetrator who is a minor to the parents or another person with primary or legal responsibility.

New §707.501 incorporates the content from former Child Protective Services rule §700.514 concerning risk and safety assessments conducted during the course of an investigation, but is being rewritten to reflect when and under what circumstances DFPS assesses risk and safety and that DFPS uses the Structured Decision Making (SDM) tool to conduct formal risk and safety assessments for children whose families are involved with DFPS. The rule is also being updated to make clear that DFPS only removes a child when the applicable criteria for removal in Subchapter B of Chapter 262, Texas Family Code, is satisfied.

New §707.503 incorporates the content from former Child Protective Services rule §700.515 concerning DFPS intervention for purposes of providing immediate or short-term protection to a child, with minor edits to reflect current terminology, including updating "evaluation" to "assessment" and "cannot or will not protect" to "unwilling or unable to protect".

New §707.505 incorporates the content from former Child Protective Services rule §700.516 concerning administrative review of investigation findings, but is being updated to: (1) reflect the agency's current practice of granting an administrative review of investigation findings (ARIF) to an individual who was designated as a perpetrator of abuse or neglect as a minor but is requesting an ARIF as an adult, even though the request is not within the ARIF timeframes; and (2) include language concerning good cause exceptions for extending ARIF timeframes, as permitted by Texas Family Code §261.309(d).

New §707.507 incorporates the content from former Child Protective Services rule §700.518 concerning notification requirements for an investigation on a person that has placement of children in DFPS conservatorship or is a foster or adoptive home with minor edits to reflect that the regional director must consult with a Child Protective Services State Office director prior to deciding that closure is not required based on a determination that there is not a continuing risk of substantial harm to children placed in the home.

New §707.509 incorporates the content from former Child Protective Services rule §700.519 concerning investigation standards with edits to remove unnecessary and outdated language, clarify that investigators receive a minimum of 12 hours of annual professional training, update the investigation standards for making recordings of interviews, and remove content regarding application of minimum standards to DFPS foster and adoptive homes as it is not relevant to the scope of the rule.

New §707.511 incorporates the content from former Child Protective Services rule §700.520 concerning criminal history records checks but is being rewritten to make the rule consistent with Texas Government Code §411.114, the governing state law concerning criminal background checks conducted by the Department of Family and Protective Services, which was amended pursuant to House Bill 4094 from the 85th Legislature, R.S. (2017).

New §707.513 incorporates, by reference, the confidentiality and release requirements of Child Protective Services records in Chapter 700, Subchapter B, of Title 40.

New §707.515 incorporates the content from former Child Protective Services rule §700.521 concerning the roles DFPS assigns to persons involved in an investigation upon receipt of an abuse and neglect report with minor, non-substantive edits.

New §707.517 incorporates the content from former Child Protective Services rule §700.523 concerning the removal of alleged perpetrator role information from DFPS records with minor edits to clarify that a notice for role removal can be sent to the parents of the alleged perpetrator if the individual is a minor.

New §707.549 explains and defines the terminology used in new Division 2, Subchapter A, Chapter 707, concerning the Department of Family and Protective Services Alternative Response Program.

New §707.551 incorporates the content from former Child Protective Services rule §700.551 concerning the purpose of alternative response interventions with minor, non-substantive edits.

New §707.553 incorporates the content from former Child Protective Services rule §700.553 concerning the types of cases that may be conducted as alternative response but is being updated to clarify that while DFPS does not generally conduct an alternative response when there is a child in the home under the age of six, DFPS will continue handling a case as an alternative response case if after the case is initiated, DFPS learns that a child under the age of six is living in the home, except if there are allegations of physical or sexual abuse.

New §707.555 incorporates the content from former Child Protective Services rule §700.555 concerning when DFPS will conduct a traditional investigation on a case initially assigned for an alternative response with minor, non-substantive edits.

New §707.557 incorporates the content from former Child Protective Services rule §700.557 concerning the Texas Family Code provision that governs alternative response cases with minor, non-substantive edits.

New §707.559 incorporates the content from former Child Protective Services rule §700.559 concerning the basic components of alternative response cases with minor, non-substantive edits.

New §707.561 incorporates the content from former Child Protective Services rule §700.561 concerning appropriate investigative actions for alternative response cases with minor, non-substantive edits.
New §707.563 incorporates the content from former Child Protective Services rule §700.563 concerning DFPS maintaining written records for alternative response cases with minor, non-substantive edits.

New §707.565 incorporates the content from former Child Protective Services rule §700.565 concerning release and confidentiality of alternative response case records with minor, non-substantive edits.

New §707.567 incorporates the content from former Child Protective Services rule §700.567 concerning actions DFPS takes at the completion of an alternative response case with minor, non-substantive edits.

New §707.597 explains and defines the terminology used in new Subchapter B, Chapter 707, concerning School Investigations.

New §707.599 incorporates the content from former Child Protective Services rule §700.401 concerning the purpose of Subchapter B of Chapter 707 with minor, non-substantive edits.

New §707.601 clarifies that the Special Investigations program of the Texas Department of Family and Protective Services’ Child Protective Investigations division conducts investigations of child abuse or neglect occurring in a school setting.

New §707.603 implements Texas Family Code §261.310 which requires DFPS to develop and adopt investigation standards.

New §707.605 incorporates the content from former Child Protective Services rule §700.402 concerning the terms and definitions used in or relevant to understanding how the Special Investigations program conducts school investigations with minor, non-substantive edits.

New §707.607 incorporates the content from former Child Protective Services rule §700.403 concerning how DFPS defines child abuse and neglect for purposes of a school investigation with minor, non-substantive edits.

New §707.609 incorporates the content from former Child Protective Services rule §700.404 concerning when DFPS assigns a report of child alleged abuse or neglect occurring in a school setting for investigation with minor, non-substantive edits.

New §707.611 incorporates the content from former Child Protective Services rule §700.405 concerning notifications to law enforcement of reports of child alleged abuse or neglect occurring in a school setting with minor, non-substantive edits.

New §707.613 incorporates the content from former Child Protective Services rule §700.406 concerning priority timeframes for initiating a school investigation with minor, non-substantive edits.

New §707.615 incorporates the content from former Child Protective Services rule §700.407 concerning notification to certain school personnel prior to initiation of a school investigation, with edits to reflect new statutory requirements from Texas Family Code §261.105(d) enacted pursuant to Senate Bill 1231 from the 86th Legislature, R.S. (2019), which requires that in addition to notifying the school principal of the investigation, the Special Investigator must also notify the superintendent of the school district, and as relevant, the director of a charter school and chief executive officer of a private school if the alleged perpetrator is an employee of a charter or private school.

New §707.617 incorporates the content from former Child Protective Services rule §700.408 concerning the conduct of a school investigation with minor, non-substantive edits.

New §707.619 incorporates the content from former Child Protective Services rule §700.409 concerning the procedures for interviews and examinations conducted during the course of a school investigation with edits to clarify that if the school is not under the jurisdiction of the Texas Education Agency, DFPS must have consent or a court order to conduct the interview and visual inspection of the child unless DFPS has a reason to believe that the child is in immediate danger of physical or sexual abuse.

New §707.621 incorporates the content from former Child Protective Services rule §700.410 concerning assignment of dispositions and roles to persons involved in the investigation at the completion of the investigation, with minor, non-substantive edits.

New §707.623 incorporates the content from former Child Protective Services rule §700.411 concerning notification to certain school personnel at the completion of the investigation with edits to reflect new statutory requirements from Texas Family Code §261.406(b) pursuant to Senate Bill 1231 from the 86th Legislature, R.S. (2019), which requires that after the completion of an investigation concerning an employee of a private school, DFPS provide a report of the investigation, redacted to remove the identity of the reporter, to the chief executive officer of the school unless the chief executive officer is the alleged perpetrator.

New §707.625 incorporates the content from former Child Protective Services rule §700.412 concerning notification of the completion of a school investigation to non-school entities with minor, non-substantive edits.

New §707.701 explains and defines the terminology used in new Subchapter C, Chapter 707, concerning Child Care Investigations rules.

New §707.703 includes the terms and corresponding definitions used in or relevant to understanding new Subchapter C, Chapter 707, concerning Child Care Investigations rules.

New §707.711 incorporates the content from former Child Care Licensing rule §745.8405 concerning the purpose of an investigation of a childcare operation with minor, non-substantive edits.

New §707.713 implements the requirements of Texas Family Code §261.310 through the promulgation of investigation standards that apply to Child Care Investigation when conducting investigations of abuse, neglect, and exploitation in a childcare operation.

New §707.715 reflects current policy and practice and implements the requirements of Texas Family Code §261.301(d) which requires the Department of Family and Protective Services to, by rule, assign priority timeframes for responding to reports of child abuse, neglect, and exploitation based on the severity and immediacy of the alleged harm to the child.

New §707.717 explains the actions that Child Care Investigations can take during the course of an investigation, including visiting the operation; conducting a walkthrough; requesting correction of certain deficiencies and notifying the Health and Human Services Child Care Licensing division of the deficiencies; gathering evidence; and investigating allegations other than abuse, neglect, or exploitation, such as allegations of deficient minimum standards as specified in the rule.

New §707.719 incorporates the content from former Child Care Licensing rules §§745.8413, 745.8415, and 745.8425 concerning Child Care Investigations' ability to visit and investigate all
areas of the operation, with edits to clarify that if the child care operation interferes with the investigation and does not permit CCI to visit and investigate all areas of the operation, CCI may seek legal action pursuant to Texas Human Resources Code §42.04412 and Child Care Licensing may issue the operation a deficiency for failure to cooperate with the investigation or take enforcement action.

New §707.721 incorporates the content from former Child Care Licensing rules §§745.8415, 745.8417, and 745.819, concerning the areas of the operation that Child Care Investigations (CCI) may visit and walkthrough and the ability and need for CCI to access and take copies of records, with minor, non-substantive edits.

New §707.723 incorporates the content from former Child Care Licensing rule §745.8411 regarding announced and unannounced visits during an abuse, neglect, and exploitation investigation with minor, non-substantive edits.

New §707.725 incorporates the content from former Child Care Licensing rule §745.8409 regarding the frequency of visits to an operation during an abuse, neglect, and exploitation investigation with minor, non-substantive edits.

New §707.727 incorporates the content from former Child Care Licensing rule §745.8421 regarding investigations of anonymous reports alleging abuse, neglect, or exploitation with minor, non-substantive edits.

New §707.729 incorporates the content from former Child Care Licensing rule §745.8423 concerning posting of findings of anonymous reports and deficiencies cited by the Child Care Licensing (CCL) division of the Health and Human Services Commission on the Search Texas Child Care website, but is being amended to clarify that while the findings of an investigation conducted by Child Care Investigations are confidential, if CCL cites deficiencies related to the investigation, CCL may post the deficiency findings on the website, including deficiencies related to an abuse, neglect, or exploitation finding or related to some other minimum standards deficiency that was found during the abuse, neglect, or exploitation investigation.

New §707.741 incorporates the content from former Child Care Licensing rules §§745.8441 and 745.8443, regarding the notification requirements to an operation of the initiation of an investigation, with minor edits to clarify that the notification will generally be made at the time of the first on-site visit.

New §707.743 incorporates the content from former Child Care Licensing rule §745.8451 regarding notification requirements to parents when an investigator interviews their child, but is being updated to clarify that Child Care Investigations may delay the notice upon request of law enforcement or another Department of Family and Protective Services program if the notification will interfere with a companion investigation being conducted by these entities.

New §707.745 incorporates the content from former Child Care Licensing rules §§745.8445 and 745.8447 concerning notification to certain entities of the investigation findings at the completion of the investigation but is being amended to specify the specific entities that Child Care Investigations (CCI) notifies and the contents of each notification. Specifically the new rule provides that CCI will notify any person alleged to be a perpetrator, the Child Care Licensing inspector assigned to monitor the operation, the parents of the child victim, and the reporter. The rule also provides that Child Care Licensing will notify the operation of the investigation results.

New §707.747 provides that Child Care Licensing, and not Child Care Investigations, will make decisions about possible minimum standard deficiencies and will notify the operation of any minimum standard deficiencies as well as the results of the investigation.

New §707.761 incorporates the content from former Child Care Licensing rule §745.8483 concerning reporter confidentiality with a minor update to specify that the name of the reporter will only be released as provided in the rules and federal or state law.

New §707.763 incorporates the content from former Child Care Licensing rules §§745.8485 and 745.8487 concerning the confidentiality of Child Care Investigations case records, but is being amended to add references to the state and federal laws concerning confidentiality of case records, including the federal Child Abuse Prevention and Treatment Act and Human Resources Code §§ 40.005 and 42.004. The rule is further being amended to clarify that the Child Care Licensing (CCL) division of the Health and Human Services Commission which maintains the operation's monitoring file, will have access to the investigation records pursuant to Human Resources Code §40.042(f).

New §707.765 incorporates the content from former Child Care Licensing rule §745.8491 concerning the entities that may obtain confidential case information but is being updated to include: (1) Child Care Licensing (CCL) in order to allow CCL to carry out its statutory duties; and (2) out-of-state child licensing agencies in addition to out-of-state child welfare agencies.

New §707.767 incorporates the content from former Child Care Licensing rule §745.8493 concerning portions of confidential case records that may not be released to anyone except as specified in the rule, but is being updated to reflect that: (1) Child Care Investigations may release the portions of the confidential case records to Child Care Licensing (CCL) in order to allow CCL to carry out its statutory duties as well as to any other person authorized by state or federal law to have a copy; and (2) any information identifying a child in an abuse, neglect, or exploitation investigation will only be released to the child's prospective adoptive parent and the single-source continuum contractor for community-based care.

New §707.769 incorporates the content from former Child Care Licensing rule §745.8495 concerning the confidentiality of audio and visual recordings made during the course of an investigation, but is being amended to: (1) add references to the state and federal laws concerning confidentiality of case records, including the federal Child Abuse Prevention and Treatment Act and Human Resources Code §42.004; and (2) include Child Care Licensing (CCL) as an entity entitled to the recordings and documentation in order to allow CCL to carry out its statutory duties.

New §707.781 specifies that the purpose of Chapter 707, Subchapter C, Division 5 is to further supplement and clarify the definitions in Texas Family Code §261.001 related to investigations of child abuse, neglect, and exploitation in child care operations.

New §707.783 specifies who is considered responsible for a child's care, custody, or welfare under Texas Family Code §261.001(S) for purposes of a child abuse, neglect, or exploitation investigation in a childcare operation and incorporates the content from former Child Care Licensing rule §745.8553.
New §707.785 defines the terms "omission", "reasonable effort to prevent", and "substantial risk" as used in Chapter 707, Subchapter C, Division 5.

New §707.787 further defines and clarifies the statutory definition of emotional abuse found in Texas Family Code §261.001(1)(A); (B); and (I) as applied to investigations of abuse, neglect, and exploitation conducted by Child Care Investigations.

New §707.789 further defines and clarifies the statutory definition of physical abuse found in Texas Family Code §261.001(1)(C); (D); (I), and (J) as applied to investigations of abuse, neglect, and exploitation conducted by Child Care Investigations.

New §707.791 further defines and clarifies the statutory definition of sexual abuse found in Texas Family Code §261.001(1)(E)-(H) and (K) as applied to investigations of abuse, neglect, and exploitation conducted by Child Care Investigations.

New §707.793 further defines and clarifies the statutory definition of labor trafficking found in Texas Family Code §261.001(1)(L) as applied to investigations of abuse, neglect, and exploitation conducted by Child Care Investigations.

New §707.795 further defines and clarifies the statutory definition of sex trafficking found in Texas Family Code §261.001(1)(L) as applied to investigations of abuse, neglect, and exploitation conducted by Child Care Investigations.

New §707.797 further defines and clarifies the statutory definition of forced marriage found in Texas Family Code §261.001(1)(M) as applied to investigations of abuse, neglect, and exploitation conducted by Child Care Investigations.

New §707.799 further defines and clarifies the statutory definition of exploitation found in Texas Family Code §261.001(3) as applied to investigations of abuse, neglect, and exploitation conducted by Child Care Investigations.

New §707.801 further defines and clarifies the statutory definition of neglect found in Texas Family Code §261.001(1)(4)(A) as applied to investigations of abuse, neglect, and exploitation conducted by Child Care Investigations. The new rule incorporates the content from former Child Care Licensing rule §745.8559 but is being updated to include the following additional acts or omissions that constitute neglect: (1) causing, expressly permitting, or encouraging a child to use alcohol; and (2) using alcohol in a manner or to the extent that the use results in substantial emotional harm or physical injury to a child.

New §707.803 incorporates the content from former Child Care Licensing rule §745.8561 concerning the reasonable and prudent parent standard with minor, non-substantive edits.

New §707.815 incorporates the content from former Child Care Licensing rules §§745.8801 and 745.8803, concerning the purpose of an administrative review for a finding of abuse, neglect, or exploitation of a child in a childcare operation with minor, non-substantive edits.

New §707.817 incorporates the content from former Child Care Licensing rules §§745.8805 and 745.8807 concerning who can request an administrative review for a finding of abuse, neglect, or exploitation of a child in a childcare operation with minor, non-substantive edits.

New §707.819 incorporates the content from former Child Care Licensing rules §§745.8806 and 745.8809 concerning the process for requesting an administrative review for a finding of abuse, neglect, or exploitation with a minor edit to remove the requirements that the request for review include an explanation of why the individual is disputing the action or an explanation of how the individual was in compliance.

New §707.821 incorporates the content from former Child Care Licensing rule §745.8813, concerning who from the Child Care Investigations program conducts an administrative review for a finding of abuse, neglect, or exploitation of a child in a childcare operation with minor, non-substantive edits.

New §707.823 incorporates the content from former Child Care Licensing rule §745.8815, concerning the procedure for conducting an administrative review for a finding of abuse, neglect, or exploitation of a child in a childcare operation with minor, non-substantive edits.

New §707.825 incorporates the content from former Child Care Licensing rule §745.8815(e)-(f) concerning the actions that the Child Care Investigations program may take at the conclusion of an administrative review of a finding of abuse, neglect, or exploitation of a child in a childcare operation with minor, non-substantive edits.

New §707.827 incorporates the content from former Child Care Licensing rule §745.8815(f) concerning the time frame for making a decision regarding an administrative review for a finding of abuse, neglect, or exploitation of a child in a childcare operation, but is being amended to reflect that the Child Care Investigations program will provide a written decision within 30 calendar days of the meeting or within 60 days of the request for an administrative review if a meeting was not held. The purpose of the amendments is to allow the reviewer sufficient time to examine all pertinent evidence and conduct a thorough review while ensuring that the requestor is provided a timely decision.

New §707.829 incorporates the content from former Child Care Licensing rule §745.8817 concerning waiver of an administrative review for a finding of abuse, neglect, or exploitation of a child in a childcare operation with minor, non-substantive edits.

New §707.831 provides that if a designated perpetrator waives the right to an administrative review, the abuse, neglect, or exploitation finding will not change and the Child Care Investigations program will forward a notice of the right to a due process hearing to the designated perpetrator.

New §707.841 incorporates the content from former Child Care Licensing rules §§745.8831 and 745.8833 concerning the purpose of a due process hearing for a finding of abuse, neglect, or exploitation of a child in a childcare operation with minor edits to reflect that the administrative law judge uses the preponderance of evidence standard when deciding whether to uphold, reverse, or alter the finding against the designated perpetrator.

New §707.843 incorporates the content from former Child Care Licensing rules §§745.8835 and 745.8837 concerning who can request a due process hearing for a finding of abuse, neglect, or exploitation of a child in a childcare operation.

New §707.845 incorporates the content from former Child Care Licensing rules §§745.8839 and 745.8841, concerning the procedure for requesting a due process hearing for a finding of abuse, neglect, or exploitation of a child in a childcare operation with edits to reflect that the request for a due process hearing must be sent to Docket Clerk for Child Care Licensing at the
Health and Human Services Commission and to also reflect that requests can be submitted by fax or email in lieu of mailing.

New §707.847 incorporates the content from former Child Care Licensing rule §745.8843(a)-(c), concerning the actions that take place after a designated perpetrator requests a due process hearing, including the appointment of an administrative law judge, assignment of a docket number, and provision of a notice of the scheduled hearing to the designated perpetrator.

New §707.849 concerning how a due process hearing is conducted incorporates the content from former Child Care Licensing rule §745.8845 with no edits.

New §707.851 incorporates the content from former Child Care Licensing rule §745.8851 concerning when an administrative law judge can combine due process hearings requested for different actions and findings made by both, the Child Care Investigations program of the Department of Family and Protective Services and the Child Care Licensing division of the Health and Human Services Commission, with minor, non-substantive edits.

New §707.853 incorporates the content from former Child Care Licensing rule §745.8849 concerning the findings an administrative law judge can make at a due process hearing for a finding of abuse, neglect, or exploitation of a child in a childcare operation with minor, non-substantive edits.

New §707.855 incorporates the content from former Child Care Licensing rule §745.8853 concerning the actions an administrative law judge may take if a designated perpetrator fails to appear at a due process hearing for a finding of abuse, neglect, or exploitation of a child in a childcare operation with minor, non-substantive edits.

New §707.857 provides the actions the Child Care Investigations program must take in response to an administrative law judge's actions regarding a finding of abuse, neglect, or exploitation of a child in a childcare operation.

New §707.859 incorporates the content from former Child Care Licensing rule §745.8855 concerning waiver of the right to a due process hearing for a finding of abuse, neglect or exploitation but is being updated to include that a designated perpetrator may also waive the right to the due process hearing after requesting a hearing by submitting a written waiver.

FISCAL NOTE

David Kinsey, Chief Financial Officer of DFPS, has determined that for each year of the first five years that the sections will be in effect, there will be no fiscal implications to state or local governments as a result of enforcing and administering the sections as proposed.

GOVERNMENT GROWTH IMPACT STATEMENT

DFPS has determined that during the first five years that the proposed rules will be in effect:

(1) the proposed rules will not create or eliminate a government program;
(2) implementation will not affect the number of employee positions;
(3) implementation will not require an increase or decrease in future legislative appropriations to the agency;
(4) the proposed rules will not affect fees paid to the agency;
(5) the proposed rules will create new regulations to the extent that the content from the rules in 40 TAC 700, Subchapters D and E, and 40 TAC 745, Subchapters K and M, is being incorporated with amendments into new rules in new Chapter 707;
(6) the proposed rule action will result in repeal of existing regulations to the extent that the rules from 40 TAC 700, Subchapters D and E are being repealed and the content of those rules is being incorporated with amendments into new rules in new Chapter 707;
(7) the proposed rules will not change the number of individuals subject to the rule; and
(8) the proposed rules will not affect the state's economy.

SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT ANALYSIS

Mr. Kinsey has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities. The rules do not apply to small or micro-businesses, or rural communities.

ECONOMIC COSTS TO PERSONS AND IMPACT ON LOCAL EMPLOYMENT

There are no anticipated economic costs to persons who are required to comply with these sections as proposed.

There is no anticipated negative impact on local employment.

COSTS TO REGULATED PERSONS

Pursuant to subsection (c)(7) of Texas Government Code §2001.0045, the statute does not apply to a rule that is adopted by the Department of Family and Protective Services.

PUBLIC BENEFIT

Audrey Carmichael, General Counsel of DFPS, has determined that for each year of the first five years the sections are in effect, the public benefit anticipated as a result of enforcing the sections is that the public will gain a better understanding of DFPS's Child Protective Investigations division, the different types of child abuse and neglect investigations conducted by DFPS, and the current procedures and protocols that apply to the different types of child abuse and neglect investigations.

REGULATORY ANALYSIS

The department has determined that this proposal is not a "major environmental rule" as defined by Government Code, §2001.0225.

TAKINGS IMPACT ASSESSMENT

DFPS has determined that the proposal does not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking under Government Code, §2007.043.

PUBLIC COMMENT

Comments and questions on this proposal must be submitted within 30 days of publication of the proposal in the Texas Register. Electronic comments and questions may be submitted to RULES@dfps.state.tx.us. Hard copy comments may be submitted to the DFPS Rules Coordinator, Legal Services 18R17, Department of Family and Protective Services E-611, P.O. Box 149030, Austin, Texas 78714-9030.

SUBCHAPTER A. INVESTIGATIONS
DIVISION 1.  INTAKE, INVESTIGATION AND ASSESSMENT


STATUTORY AUTHORITY

The proposed new sections implement the Child Abuse Prevention and Treatment Act, Chapters 40 and 42 of the Texas Human Resources Code; Chapter 261 of the Texas Family Code including Texas Family Code § 261.001; and Texas Government Code § 531.02013.

The modification is proposed under Human Resources Code (HRC) §40.027, which provides that the Department of Family and Protective Services commissioner shall oversee the development of rules relating to the matters within the department's jurisdiction and notwithstanding any other law, shall adopt rules for the operation and provision of services by the department.

No other statutes, articles, or codes are affected by the proposed rules.

§707.447.  What do the following pronouns mean when used in this division?

The following words have the following meanings when used in this division:

1.  I, my, you, and your--A person being investigated by the Investigations program for allegations of child abuse or neglect unless otherwise stated or the context clearly indicates otherwise.

2.  We, us, and our--The Investigations program of the Child Protective Investigations division of the Texas Department of Family and Protective Services unless otherwise stated or the context clearly indicates otherwise.

§707.449.  What is the purpose of this division?

The purpose of this division is to describe procedures for the report, investigation, and review of reports alleging abuse and neglect of a child by a person responsible for the child's care, custody, or welfare. In addition, the rules relating to the definitions of abuse and neglect are intended to further supplement and clarify the statutory definitions of abuse and neglect in Texas Family Code §261.001.

§707.451.  What terms and definitions are used in reports, investigations, and assessments of abuse and neglect?

(a)  The following terms have the following meanings when used in this subchapter:

1.  An absent parent or non-custodial parent--a parent who, at the time of the occurrence of the conduct which is the basis for the investigation, does not have actual possession or control of the child and is not primarily responsible for the child's care because of any of the following:

   (A)  Divorce;
   (B)  Separation;
   (C)  Incarceration; or
   (D)  Any other reason that results in the parent not having actual possession or control and primary responsibility of the child.

2.  Accident--an unforeseen, unexpected, or unplanned act or event that occurs unintentionally and causes or threatens physical injury despite exercising the care and diligence that a reasonable and prudent person would exercise under similar circumstances to avoid the risk of injury.

3.  Child--person under 18 years of age who is not and has not been married or who has not had the disabilities of minority removed for general purposes.

4.  Child safety--the absence of danger or the presence of protective actions demonstrated over time by a parent or caregiver that mitigates dangers to the child.

5.  Danger--behaviors or conditions that place a child in imminent danger of serious harm.

6.  Day--calendar day unless otherwise specified.

7.  Guardian--anyone named as "guardian of the person of a child" by a probate court order.

8.  Household--

   (A)  A unit composed of persons living together in the same dwelling, whether or not they are related to each other, when the dwelling consists of:

       (i)  The child's family's household, including the households of both parents when the parents reside separately;

       (ii)  A household in which the parent has arranged for or authorized placement of the child; or

       (iii)  A household in which the child is legally placed by a parent or a court.

   (B)  During the receipt and investigation of reports of child abuse and neglect, we treat an unrelated person who resides elsewhere or whose place of residence cannot be determined as a member of the household if the person is at least 10 years old and either:

       (i)  Has regular free access to the household; or

       (ii)  When in the household dwelling takes care of or assumes responsibility for children in the household.

9.  Investigations--a program of the Child Protective Investigations division of the Texas Department of Family and Protective Services that investigates allegations of child abuse and neglect by a person responsible for the child's care, custody, or welfare as defined in Texas Family Code §261.001(5)(A)-(C).

10.  Managing or possessory conservator--a person legally responsible for a child as the result of a court order.

11.  Parent--the mother, a man presumed to be the biological father or who has been adjudicated to be the biological father by a court of competent jurisdiction, or an adoptive mother or father. The term does not include a parent as to whom the parent-child relationship has been terminated.

12.  Preponderance of evidence--evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not.

13.  Protective actions--specific actions that have been taken by an individual or family to directly address the danger of abuse and neglect and are demonstrated over time.

14.  Reasonable effort to prevent--actions that a person responsible for a child's care, custody, or welfare would have taken to protect a child from abuse the person knew or reasonably should have
known was occurring. It is not required for that person to have directly perpetrated the abuse.

(15) Reporter--an individual who makes a report to the Texas Department of Family and Protective Services or a duly constituted law enforcement agency alleging the abuse or neglect of a child. If more than one individual makes a report alleging abuse or neglect of the same child, all such individuals shall have the designation of a reporter.

(16) Risk factors--elements of individual and family functioning that may place a child at risk of abuse or neglect.

(17) Risk of child abuse or neglect--a reasonable likelihood that in the foreseeable future there will be an occurrence of child abuse or neglect as defined in Texas Family Code (TFC) §261.001. The presence of risk does not constitute abuse or neglect as defined in TFC §261.001 but qualifies children and families to receive protective services as specified in §700.311(a)(1), Subchapter C, Chapter 700, of this title (relating to Eligible Individuals).

(18) Strengths--resources and conditions of an individual or the family that increase the likelihood or ability to protect a child from abuse or neglect but do not fully address the danger to the child.

(19) Substantial harm--real and significant physical injury or damage to a child.

(20) Substantial risk--a real and significant possibility or likelihood.

(b) Terms not defined in this subchapter have the meaning given in the Texas Family Code, including definitions in Chapter 101 and §261.001, Texas Family Code, and other relevant law, or their ordinary meaning if not defined in law.

§707.453. What is emotional abuse?

(a) Emotional abuse is a subset of the statutory definitions of abuse that appear in Texas Family Code §261.001(1) and includes the following acts or omissions by a person:

(1) Mental or emotional injury to a child that results in an observable and material impairment in the child's growth, development, or psychological functioning;

(2) Causing or permitting the child to be in a situation in which the child sustains a mental or emotional injury that results in an observable and material impairment in the child's growth, development, or psychological functioning; or

(3) The current use by a person of a controlled substance as defined by Chapter 481, Health and Safety Code, in a manner or to the extent that the use results in mental or emotional injury to a child.

(b) In this section, the following terms have the following meanings:

(1) "Mental or emotional injury" means:

(A) That a child of any age experiences significant or serious negative effects on intellectual or psychological development or functioning. Although the child does not have to experience physical injury or be diagnosed by a medical or mental health professional in order for us to determine that the child suffers from a mental or emotional injury, when assessing the child, we will consult with professional collaterals outside of the Texas Department of Family and Protective Services that have witnessed and validated that the child is exhibiting behaviors indicative of observable and material impairment as specified in subsection (b)(2) of this section. When the mental or emotional injury involves exposure to domestic violence, we will consult with professional collaterals that have documented expertise or training in the dynamics of domestic violence, whenever possible.

(B) For purposes of subsection (a)(3) of this section, "mental or emotional injury" resulting from a person's current use of a controlled substance includes a child of any age experiencing interference with normal psychological development, functioning, or emotional or mental stability, as evidenced by an observable and substantial change in behavior, emotional response, or cognition, related to the person's current use of a controlled substance.

(2) "Observable and material impairment" means discernible and substantial damage or deterioration to a child's emotional, social, and cognitive development. It may include but is not limited to depression; anxiety; panic attacks; suicide attempts; compulsive and obsessive behaviors; acting out or exhibiting chronic or acute aggressive behavior directed toward self or others; withdrawal from normal routine and relationships; memory lapse; decreased concentration; difficulty or inability to make decisions; or a substantial and observable change in behavior, emotional response, or cognition.

§707.455. What is physical abuse?

(a) Physical abuse is a subset of the statutory definitions of abuse that appear in Texas Family Code §261.001(1) and includes the following acts or omissions by a person:

(1) Physical injury that results in substantial harm to the child, or the genuine threat of substantial harm from physical injury to the child, including an injury that is at variance with the history or explanation given and excluding an accident or reasonable discipline by a parent, guardian, or managing or possessory conservator that does not expose the child to a substantial risk of harm.

(2) Failure to make a reasonable effort to prevent an action by another person that results in physical injury that results in substantial harm to the child;

(3) The current use by a person of a controlled substance as defined by Chapter 481, Health and Safety Code, in a manner or to the extent that the use results in physical injury to a child; or

(4) Causing, expressly permitting, or encouraging a child to use a controlled substance as defined by Chapter 481, Health and Safety Code.

(b) In this section, the following terms have the following meanings:

(1) "Genuine threat of substantial harm from physical injury" means declaring or exhibiting the intent or determination to inflict real and significant physical injury or damage to a child. The declaration or exhibition does not require actual physical contact or injury. It includes but is not limited to the following acts or attempts to commit the following acts: strangling as defined in §22.01(b)(2)(B), Texas Penal Code; suffocating; shaking; hitting a child on the head; hitting, kicking, or punching a child's body parts or organs; throwing a child; throwing an object at a child; stabbing; shooting; or otherwise committing a violent act against a child.

(2) "Physical injury that results in substantial harm to the child" means real and significant physical injury or damage to a child that includes but is not limited to:

(A) Any of the following, if caused by an action of the alleged perpetrator directed toward the alleged victim: substantial or frequent skin bruising; substantial cuts, welts, lacerations, or pinch marks; skull or other bone fractures; damage to cartilage; brain damage; subdural hematoma; soft tissue swelling; impairment of or injury to any bodily organ or function; any other internal injury otherwise not specified; permanent or temporary disfigurement; burns; scalds;
wounds, including puncture wounds; bite marks; causing or permitting a child to consume or inhale a poisonous or noxious substance that has the capacity to interfere with normal physiological functions; exposing a child to dangerous chemicals; starvation; concussions; dislocations; sprains; subjecting a child to Munchausen syndrome by proxy or a fictitious illness by proxy if the incident is confirmed by medical personnel; death; or any other cruel act that causes pain or suffering to the child.

(B) Any of the following conditions that occur in an infant under the age of one because of the mother's prenatal use of alcohol or a controlled substance that was not lawfully prescribed by a medical practitioner, was lawfully prescribed as a result of the mother seeking out multiple health care providers as a means of exceeding ordinary dosages, or was not being used in accordance with a lawfully issued prescription, if the mother knew or reasonably should have known she was pregnant:

(i) A physician’s written diagnosis of physical manifestations of Fetal Alcohol Syndrome or Fetal Alcohol Effect, which includes Alcohol-Related Birth Defects and Alcohol Related Neurodevelopmental Disorder;

(ii) A physician's written opinion that the newborn was harmed from in utero exposure to alcohol or a controlled substance; or

(iii) A physician's diagnosis of Neonatal Abstinence Syndrome.

(C) Any of the following physical injuries to a child of any age caused by a person's use of a controlled substance other than prenatal use: illness; interference with normal physiological functions or motor coordination; or any other physical harm related to the person's current use, manufacture, or possession of the controlled substance.

3) "Reasonable discipline" means discipline that is reasonable in manner and moderate in degree; does not constitute cruelty, reckless behavior, or grossly negligent behavior; and is administered for purposes of restraining or correcting the child. It shall not include an act that is likely to cause or causes injury more serious than transient pain or minor temporary marks. The age, size, and condition of the child; the location of the injury; and the frequency or recurrence of injuries shall be considered when determining whether the discipline is reasonable and moderate.

§707.457. What is sexual abuse?

(a) Sexual abuse is a subset of the statutory definitions of abuse that appear in Texas Family Code §261.001(1) and includes the following acts or omissions by a person:

(1) Sexual conduct harmful to a child's mental, emotional, or physical welfare, including:

(A) Conduct that constitutes the offense of continuous sexual abuse of young child or children under §21.02, Penal Code;

(B) Indecency with a child under §21.11, Penal Code;

(C) Sexual assault under §22.011, Penal Code; or

(D) Aggravated sexual assault under §22.021, Penal Code;

(2) Failure to make a reasonable effort to prevent sexual conduct harmful to a child;

(3) Compelling or encouraging the child to engage in sexual conduct as defined by §43.01, Penal Code, including compelling or encouraging the child in a manner that constitutes an offense of:

(A) Trafficking of persons under §20A.02(a)(7) or (8), Penal Code;

(B) Prostitution under §43.02(b), Penal Code; or

(C) Prostitution under §43.05(a)(2), Penal Code;

(4) Causing, permitting, encouraging, engaging in, or allowing the photographing, filming, or depicting of the child if the person knew or should have known that the resulting photograph, film, or depiction of the child is obscene as defined by §43.21, Penal Code, or pornographic; or

(5) Causing, permitting, encouraging, engaging in, or allowing a sexual performance by a child as defined by §43.25, Penal Code.

(b) In this section, the following terms have the following meanings:

(1) "Causing, permitting, encouraging, engaging in, or allowing the photographing..." is a condition of the statutory definition of sexual abuse. It is met even if the child participates voluntarily.

(2) "Compelling or encouraging the child to engage in sexual conduct..." is a condition of the statutory definition of sexual abuse. It is met whether the child actually engages in sexual conduct or simply faces a substantial risk of doing so.

(3) "Sexual conduct harmful to a child's mental, emotional or physical welfare" includes but is not limited to: rape; incest; sodomy; inappropriate touching of the child's anus, breast, or genitals, including touching under or on top of the child's clothing; deliberately exposing one's anus, breast, or any part of the genitals to a child; touching the child in a sexual manner or directing sexual behavior toward the child; showing pornography to a child; encouraging a child to watch or hear sexual acts; compelling, encouraging, or permitting a child to engage in prostitution; watching a child undress, shower, or use the bathroom with the intent to arouse or gratify one's sexual desire; voyeurism; sexually oriented acts, which may or may not include sexual contact or touching with intent to arouse or gratify the sexual desire of any person; and any sexually oriented act or practice that would cause a reasonable child under the same circumstance to feel uncomfortable or intimidated or that results in harm or substantial risk of harm to a child's growth, development, or psychological functioning.

(c) For purposes of subsection (a)(4) of this section, pornography has the same meaning as specified in Texas Penal Code §43.26.

§707.459. What is labor trafficking?

(a) Labor trafficking is a subset of the statutory definitions of abuse that appear in Texas Family Code §261.001(1) and includes the following acts or omissions by a person:

(1) Knowingly causing, permitting, encouraging, engaging in, or allowing a child to be trafficked in a manner punishable as an offense under §20A.02(a)(5) or (6), Penal Code; or

(2) The failure to make a reasonable effort to prevent a child from being trafficked in a manner punishable as an offense under §20A.02(a)(5) or (6), Penal Code.

(b) In this section, the following terms have the following meanings:

(1) "Labor trafficking" means enticing, recruiting, harboring, transporting, enslaving, or providing to others or obtaining for oneself a child for labor or services through force, fraud, coercion, or exploitation. It involves giving or receiving monetary or nonmonetary remuneration, including the child's services, and a pervasive loss of freedom for the child.
(A) When determining whether a child is a victim of labor trafficking, we evaluate the totality of circumstances, including but not limited to evidence that the child is being controlled by threats of deportation or physical or other types of harm to the child or the child's family; evidence of withholding or destroying of the child's legal documents; causing the child or child's family to become indebted to the trafficker; restricting the child's movement, communication, or ability to live a normal life; the detrimental nature of the work to the health, safety, or well-being of the child; or using physical, verbal or sexual intimidation or other types of manipulation to cause the child to feel helpless or in fear of the trafficker.

(B) Labor trafficking does not include normal contribution to family and community life in light of prevailing community standards, such as performing chores inside and outside of the house, being required to work in the family business without pay, working in agriculture or farming as part of the family's business or means of earning a living, or other forms of labor or services specified under Texas Labor Code §51.003.

(2) "Knowingly causing, permitting, encouraging, engaging in, or allowing" is a condition of the statutory definition of labor trafficking. It is met whether the child actually engages in forced labor or services or simply faces a substantial risk of doing so.

§707.461. What is sex trafficking?

(a) Sex trafficking is a subset of the statutory definitions of abuse that appear in Texas Family Code §261.001(1) and includes the following acts or omissions by a person:

(1) Knowingly causing, permitting, encouraging, engaging in, or allowing a child to be trafficked in a manner punishable as an offense under §20A.02(a)(7) or (8), Penal Code; or

(2) The failure to make a reasonable effort to prevent a child from being trafficked in a manner punishable as an offense under §20A.02(a)(7) or (8), Penal Code.

(b) In this section "sex trafficking" means enticing, luring, recruiting, harboring, transporting, enslaving, selling, or holding captive a child for sexual conduct specified in §20A.02(a)(7), Penal Code. It involves giving or receiving monetary or nonmonetary remuneration, including the child's sexual services, and a pervasive loss of freedom for the child.

(c) Sex trafficking does not require force, fraud, or coercion and occurs even if it appears that the child is in agreement with the conduct or the child does not consider herself or himself to be a victim of sex trafficking.

(d) When determining whether a child is a victim of sex trafficking, we evaluate the totality of circumstances, including but not limited to evidence that the child is being controlled by threats of deportation or physical or other types of harm to the child or the child's family; evidence of withholding or destroying of the child's legal documents; causing the child or child's family to become indebted to the trafficker; restricting the child's movement, communication, or ability to live a normal life; or using physical, verbal, or other types of intimidation or manipulation to cause the child to feel helpless or in fear of the trafficker.

§707.463. What is forced marriage?

Forced marriage is a subset of the statutory definitions of abuse that appear in Texas Family Code §261.001(1) and includes the following act or omission by a person: forcing or coercing a child to enter into a marriage.

§707.465. What is abandonment?

Abandonment is a subset of the statutory definitions of neglect that appear in Texas Family Code §261.001(4) and includes leaving a child in a situation where the child would be exposed to a substantial risk of physical or mental harm, without arranging for necessary care for the child, and the demonstration of an intent not to return by a parent, guardian, or managing or possessory conservator of the child.

§707.467. What is neglectful supervision?

(a) Neglectful supervision is a subset of the statutory definitions of neglect that appear in Texas Family Code (TFC) §261.001(4) and includes the following acts or omissions by a person:

(1) Placing a child in or failing to remove a child from a situation that a reasonable person would recognize requires judgment or actions beyond the child's level of maturity, physical condition, or mental abilities and that results in bodily injury or a substantial risk of immediate harm to the child;

(2) Placing a child in or failing to remove the child from a situation in which the child would be exposed to a substantial risk of sexual conduct harmful to the child; or

(3) Placing a child in or failing to remove the child from a situation in which the child would be exposed to acts or omissions that constitute abuse under TFC, §261.001(1)(E), (F), (G), (H), or (K) committed against another child.

(b) Neglectful supervision as defined in subsection (a)(1) of this section excludes an accident.

(c) For purposes of evaluating an allegation of "neglectful supervision", the following factors may be considered when assessing substantial risk:

(1) The child's age;

(2) Any arrangements the parents made to ensure the child's safety;

(3) The child's physical condition, psychological functioning, and level of maturity;

(4) Any intellectual, physical, or medical disability the child has;

(5) Any previous history or patterns of abuse or neglect;

(6) The frequency and duration of similar incidents; and

(7) The overall safety of the child's environment.

(d) In the case of prenatal use of alcohol or a controlled substance that was not lawfully prescribed by a medical practitioner, was lawfully prescribed as a result of the mother seeking out multiple health care providers as a means of exceeding ordinary dosages, or was not being used in accordance with a lawfully issued prescription, the mother is responsible for neglectful supervision under subsection (a)(1) of this section if:

(1) The mother knew or reasonably should have known she was pregnant; and

(2) It appears that the mother's use endangered the physical and emotional well-being of the infant. It is not necessary that the infant actually suffers from an injury.

(A) For the limited purpose of this subsection, "endangered" means that the mother's prenatal use exposed the infant to loss or injury or jeopardized the infant's emotional or physical health.

(B) "Endangered" includes but is not limited to a consideration of the following factors: evidence the mother extensively used alcohol or regularly or extensively used a controlled substance
over the course of the pregnancy or in close proximity to the child's expected birth date, evidence that the mother has an alcohol or drug addiction, and evidence that the infant was at a substantial risk of immediate harm from the mother's use of alcohol or a controlled substance.

§707.469. What is medical neglect?

(a) Medical neglect is a subset of the statutory definitions of neglect that appear in Texas Family Code (TFC) §261.001(4) and includes the following act or omission by a person: failing to seek, obtain, or follow through with medical care for a child, with the failure resulting in or presenting a substantial risk of death, disfigurement, or bodily injury or with the failure resulting in an observable and material impairment to the growth, development, or functioning of the child.

(b) In this section, the following terms have the following meanings:

(1) For purposes of this section, "observable and material impairment" means discernible and substantial damage or deterioration to the child's health or physical condition, including severe pain or injury, caused by failure to seek medical attention for obvious signs of serious illness, failure to follow the advice of a medical professional, or failure to administer necessary medical care required for a child's specific health condition.

(2) When determining if medical neglect has occurred, we will consider the person's pattern of failing or refusing to follow through with medical care, the severity of the condition, any pain the child is experiencing from lack of medical care, the possible impact of non-treatment, and the length of time the condition has persisted.

(3) Medical neglect does not include the following:

(A) Pursuant to TFC §261.111, the mere refusal to administer or consent to the administration of psychotropic medication or consent to any other psychiatric or psychological treatment if the failure does not result in substantial risk of death, disfigurement, or bodily injury or an observable and material impairment to the child's growth, development, or functioning; or

(B) A parent or guardian's refusal to provide a child with specific medical treatment because of a legitimately held religious belief. However, we may still request a court order to provide medical services if the child's health requires it and will investigate allegations of lack of medical care because of religious beliefs if the child's condition appears to involve medical neglect.

§707.471. What is physical neglect?

(a) Physical neglect is a subset of the statutory definitions of neglect that appear in Texas Family Code §261.001(4) and includes the following act or omission by a person: the failure to provide a child with food, clothing, or shelter necessary to sustain the life or health of the child, excluding failure caused primarily by financial inability unless relief services had been offered and refused.

(b) In this section, the following terms have the following meanings:

(1) "...necessary to sustain the life or health of the child ...." is a condition of the statutory definition of physical neglect and is met if the failure to provide food, clothing, or shelter results in an observable and material impairment to the child's growth, development, or functioning, or in a substantial risk of an observable and material impairment. For purposes of this paragraph, "observable and material impairment" means discernible and substantial damage or deterioration to the child's health or physical condition. It may include but is not limited to malnourishment; sudden or extreme weight loss; serious skin conditions or skin breakdown; serious illness or other serious medical conditions; or any other serious physical harm to the child as a direct result of the physical neglect.

(2) "Relief services" means both public and private services, including but not limited to services provided through the government, community agencies, volunteer organizations, relatives, friends, neighbors, etc., that are intended to improve the overall well-being and physical condition of the family. The services must be affordable, reasonable, readily available, and appropriate to meet the needs of the family. It is not necessary that the relief services be provided by the Texas Department of Family and Protective Services.

(c) Evidence of physical neglect may include but is not limited to the following if they endanger the life or health of the child: unsound or decaying walls, ceiling, floors, or stairways; ineffective or faulty heating, cooling, or ventilation systems; inadequate, faulty, or broken plumbing including contaminated water; broken windows, mirrors or other glass; dangerous sleeping arrangements; the existence of dangerous bacteria or germs; nonexistent or ineffective waste disposal; dangerous food storage; fecal contamination or excessive animal feces throughout the house; untreated infestations such as fleas, roaches, or rodents; significant and uncontrolled mildew and mold; dirt buildup that is likely to cause bacteria and viruses in the dwelling; and hazardous junk material or appliances left unsecured and within easy access to the child.

§707.473. What is refusal to assume parental responsibility (RAPR)?

(a) RAPR is a subset of the statutory definitions of neglect that appear in Texas Family Code §261.001(4) and includes the following act or omission by a person: the failure by the person responsible for a child's care, custody, or welfare to permit the child to return to the child's home without arranging for the necessary care for the child after the child has been absent from the home for any reason, including having been in residential placement or having run away.

(b) We will not make a finding of abuse or neglect against you and will not put your name on the child abuse and neglect central registry described in Subchapter C, Chapter 702, of this title (relating to Child Abuse and Neglect Central Registry) if you refuse to permit the child to remain in or return to the child's home because:

(1) The child has a severe emotional disturbance;

(2) The refusal is based solely on your inability to obtain mental health services necessary to protect the safety and well-being of the child; and

(3) You have exhausted all reasonable means available to you to obtain the mental health services described above.

(c) In this subsection, the term severe emotional disturbance means a mental, behavioral, or emotional disorder of sufficient duration to result in functional impairment that substantially interferes with or limits a person's role or ability to function in family, school, or community activities as defined in Texas Family Code §261.001(9). We consider a child to have a severe emotional disturbance when a licensed mental health professional has given the child a mental health diagnosis that:

(1) Is recognized by the current version of the Diagnostic and Statistical Manual of Mental Disorders. Examples of mental health diagnoses that are consistent with severe emotional disturbance include, but are not limited to, Bipolar, Post-Traumatic Stress Disorder, Disruptive Mood Dysregulation Disorder, Conduct Disorder, Depression, Emotionally Disturbed, Mood Disorder, Oppositional Defiant Disorder, Psychotic Disorder, and Reactive Attachment Disorder; and

(2) Results in severe mental, behavioral, or emotional impairment(s) in functioning such that the child poses a danger to him
or herself or others, or a licensed mental health professional has determined the child needs inpatient mental health or residential treatment.

(d) When determining whether the refusal to permit a child to remain in or return to the child's home was based solely on your inability to obtain mental health services necessary to protect the safety and well-being of the child and whether you exhausted all reasonable means available to obtain mental health services and prevent the removal of the child, we will consider factors including, but not limited to, the following:

(1) The reasons you were unable to access appropriate mental health treatment to meet the child's needs, such as your financial resources, the lack of appropriate services available in the community, or other reasons.

(2) Whether you followed recommendations of the mental health professionals who have treated the child, including complying with recommendations about actions you need to take, or, if in disagreement with a professional, whether you discussed with the professional concerns regarding recommendations, or sought out other mental health professionals for assistance or treatment, to the extent reasonable and practicable.

(3) Whether the present need for mental health services is necessary to protect the safety and well-being of the child unrelated to any recent incident of abuse or neglect.

(e) We will review records in the central registry and remove the names of persons who were included in the central registry when the Texas Department of Family and Protective Services was named managing conservator of a child with a severe emotional disturbance solely for those persons to obtain mental health services for the child.

§707.477. When a person who is responsible for a child's care, custody, or welfare considered an alleged perpetrator of emotional abuse, physical abuse, or neglectful supervision of a child in an investigation involving domestic violence?

(a) If you are a victim of domestic violence, we will not make a finding of abuse or neglect against you solely because the domestic violence was committed in close physical proximity to the child. If the child is at risk of bodily injury or substantial risk of physical, mental, or emotional harm due solely to the violence committed against you, we will make a finding against you for failing to remove the child from that risk of harm only if, after considering the totality of the circumstances, we determine:

(1) You failed to take advantage of services or supports that would have protected the child;

(2) The services or supports were known to you; and

(3) The services or supports were reasonably available to you in the past or made available during the course of the investigation.

(b) If you are a perpetrator of domestic violence we will make a finding of abuse or neglect against you if you engage in conduct that is described by any of the definitions of abuse or neglect in this division. In particular, we will make a finding of neglectful supervision if you commit the act in such close physical proximity to the child that the child's location and the level of violence reasonably places the child at risk of bodily injury or substantial risk of immediate harm.

§707.481. What are the responsibilities of the Texas Department of Family and Protective Services in receiving reports of child abuse and neglect?

(a) The Statewide Intake division of the Texas Department of Family and Protective Services (DFPS) receives reports of child abuse and neglect 24 hours a day, seven days a week.

(b) DFPS must assist the public in understanding what to report and which protective interventions are available in response. If a report clearly does not involve child abuse or neglect or risk of abuse or neglect, DFPS may provide information and refer the reporter to other community services to help the child and family.

§707.483. Are there certain allegations the Texas Department of Family and Protective Services does not classify as reports of abuse or neglect?

(a) We will not classify reports about the following types of circumstances as allegations of abuse or neglect or risk of abuse or neglect:

(1) Truancy. Voluntary absence from school without a valid excuse.

(2) Runaway. A child who is voluntarily absent from the home without the consent of the parent or guardian.

(3) Children in need of supervision (CHINS). Children from ages 10 to 17 who are before a juvenile court for offenses under the Texas Family Code, §51.03(b).

(4) Latch-key children. School-age children left unattended part of the day, whose parents have taken appropriate precautions to assure the children's safety; and

(5) Harmful or violent children. Children who harm or commit violent acts against other children, but are not members of the alleged victim's family or household, and who are not themselves abused or neglected.

(b) Notwithstanding subsection (a) of this section, if there are allegations in the report that otherwise meet the definition of abuse or neglect, we will investigate those allegations in accordance with this division.

§707.485. What are the timeframes within which the Investigations program must respond to a report of child abuse or neglect assigned for investigation?

(a) The Texas Department of Family and Protective Services assigns priorities for reports of abuse and neglect based on the assessment of the immediacy of the risk and the severity of the possible harm to the child. Prior to initiating an investigation, we will review the intake report to determine if the initial priority and action recommended is appropriate or must be updated.

(1) Priority I reports concern children who appear to face an immediate risk of abuse or neglect that could result in death or serious harm.

(2) Priority II reports are all other reports of abuse or neglect that are not assigned a Priority I.

(b) Subject to the availability of funds, we must:

(1) Immediately respond to a report of abuse or neglect that is assigned a Priority I and involves circumstances in which the death of the child or substantial bodily harm to the child will imminently result unless we immediately intervene;

(2) Within 24 hours respond to a report of abuse or neglect that is assigned a Priority I, other than a report described in paragraph (1) of this subsection, by initiating an investigation; and

(3) Within 72 hours respond to a report of abuse or neglect that is assigned a Priority II by initiating an investigation or, pursuant to Texas Family Code §261.3015, by forwarding the report to specialized screening staff.
§707.487. Does the Texas Department of Family and Protective Services notify law enforcement of all reports received of child abuse or neglect?

Yes. We must notify appropriate law enforcement agencies of reports of child abuse or neglect within the following time frames:

1. Within 24 hours of receiving a priority I report, a sexual abuse report, or a report alleging abuse or neglect in a public or private school. The initial notification may be provided using a method that is mutually agreed upon between DFPS and the law enforcement agency. This deadline applies even if subsequent information shows that the report is unfounded or does not qualify for priority I treatment. If we provide the initial notification orally, we must also provide a written notification within three days after receiving the report.

2. We must send a written notification of all other reports within three days of receiving them.

3. Reports submitted electronically are considered written notification for purposes of this section.

§707.489. How does the Texas Department of Family and Protective Services respond to reports of child abuse or neglect?

(a) When the Statewide Intake division of the Texas Department of Family and Protective Services receives a report of alleged abuse or neglect of a child, we may respond with any of the following protective interventions, as further described in this section:

1. Closure without assignment for investigation following screening;

2. Administrative closure;

3. An abbreviated investigation;

4. A thorough investigation; or

5. An alternative investigation.

(b) Administrative closure.

1. Under certain circumstances, we may administratively close a report which was initially assigned for investigation if we obtain additional information indicating that an investigation is no longer warranted. Criteria we consider when deciding to administratively close an investigation include, but are not limited to, situations in which:

   A. The allegations have already been investigated by us;

   B. The allegations have been refuted based on a credible source and all of the following criteria are met:

      i. There are no previous substantiated allegations of abuse or neglect against a parent or caregiver in the current investigation or alternative response case;

      ii. We have not received any subsequent reports of abuse or neglect of any alleged victim, with the exception of reports that involve the same incidents and allegations as in the original report;

      iii. After contacting a professional or other credible sources with direct knowledge about the child’s condition, the investigator has determined that the child’s safety can be assured without further assessment, response, services, or assistance; and

      iv. The investigator determines that no abuse or neglect occurred.

   C. We do not have jurisdiction to conduct the investigation because:

      i. Another authorized entity, such as law enforcement or another state agency, has jurisdiction to conduct the investigation;

      ii. The alleged victim is not a child or was not born alive; or

      iii. The abuse or neglect, a danger, or risk of abuse or neglect is not occurring in Texas.

   D. The investigation was initiated on the basis of an anonymous report and after completing any necessary initial tasks, including any required interviews or collateral contacts, the investigator determines that:

      i. There is no corroborating evidence; and

      ii. A parent has taken actions to protect the alleged victim from any identified dangers.

2. If an investigation has been open for more than sixty days after the date of the intake, the supervisor must administratively close the investigation if all the following criteria are met:

   A. There are no previous substantiated allegations of abuse or neglect against a parent or caregiver in the current investigation or alternative response case;

   B. We have not received any additional reports of abuse or neglect of any alleged victim, with the exception of reports that involve the same incidents and allegations as in the original report;

   C. After contacting a professional or other credible sources with direct knowledge about the child’s condition, the supervisor determined that the child’s safety can be assured without further investigation, response, services, or assistance;

   D. No abuse or neglect occurred;

   E. Closing the case would not expose the child to undue risk of harm; and

   F. The program director reviews and determines that administratively closing the case is appropriate.

3. Exception. Notwithstanding the criteria in paragraph (1)(B) of this section, if the investigator has made contact with the alleged victim or alleged perpetrator, the investigation is not eligible for administrative closure under that paragraph. However, the case may still be eligible for other types of administrative closure or abbreviated rule out, if applicable.

   c. Abbreviated investigation with a disposition of “ruled out”.

   1. Cases assigned for investigation may be handled with an abbreviated investigation with findings of “ruled out when the investigator has determined that no abuse or neglect has occurred and the child’s safety can be assured without further investigation, response, services, or assistance. The investigator may submit an investigation as an abbreviated rule out, which does not require completing the formal risk assessment tool, when all of the following criteria in addition to any other criteria defined policy are met:

      A. There are no previous substantiated allegations of abuse or neglect against a parent or caregiver in the current investigation or alternative response case;

      B. We have not received any subsequent reports of abuse or neglect of any alleged victim unless the new report involves the same incident(s) and allegation(s) under investigation; and

      C. The reporter is not anonymous.
(2) The investigator must at a minimum perform the following tasks before submitting the investigation as an abbreviated rule out:

(A) Interview and visually inspect each alleged victim;
(B) Interview at least one parent or other person with primary or legal responsibility for each alleged victim;
(C) Complete a safety assessment and document whether any noted dangers are controlled by protective actions that have been or will be taken by the child's parent or other person with primary or legal responsibility for the child; and
(D) Conduct any required home visit.

d) Thorough investigation.

(1) Except as provided in subsection (f) of this section and division 2 of this subchapter (relating to Alternative Response), the investigator must complete a thorough investigation if we obtain information indicating that:

(A) There are dangers to the child because of abuse or neglect;
(B) Risk of abuse or neglect is indicated; or
(C) Based on information in the report and any initial contacts, it is impossible to determine whether or not there are dangers to the child because of abuse or neglect or whether risk of abuse or neglect is indicated.

(2) Before closing a thorough investigation, the investigator must at a minimum perform the following tasks:

(A) Interview each alleged victim child;
(B) Interview at least one of the parents or other person with primary or legal responsibility for the victim child;
(C) Interview each alleged perpetrator;
(D) Interview other individuals who have information that is relevant or potentially relevant to the report of abuse or neglect;
(E) Complete a safety assessment and document whether any noted dangers are controlled by protective actions that have been or will be taken by the child's parent or other person with primary or legal responsibility for the child, unless the investigation relates to a deceased child and there is no other child in the home; and
(F) Assess the risk of future abuse or neglect, unless the investigation relates to a deceased child and there is no other child in the home.

e) Alternative response. An alternative response is a protective intervention governed by division 2 of this subchapter and Texas Family Code, §261.3015, that involves an assessment of the family, including a safety assessment, and provision of necessary services and supports. Alternative response does not result in a formal finding of abuse or neglect or the designation of a perpetrator.

(f) Exceptions to required interviews. We are not required to conduct an interview to close an abbreviated or thorough investigation as described in subsections (c) and (d) of this section if we exhaust all reasonable efforts to conduct the interview but are unable to do so because:

(1) The person to be interviewed is unable to be interviewed because of age or other exceptional circumstance;

(2) The person to be interviewed, the person's parent or other legal guardian, or the attorney representing the person refuses to permit the interview;

(3) The alleged perpetrator has been arrested or is under investigation by a law enforcement agency and the interview would interfere with the investigation or violate the alleged perpetrator's rights; or, the alleged perpetrator is detained and the jail, prison, or other detention facility in which the alleged perpetrator is detained will not permit the interview; or

(4) The person to be interviewed has been interviewed by another entity and we accept the substitute interview. If the person, the person's parent or other legal guardian, or the attorney representing the person requests that the person also be interviewed by us, the investigator must conduct one supplemental interview.

§707.491. What procedures apply when the investigator makes contact with and conducts interviews of parent(s) and alleged perpetrator(s) during an investigation?

(a) At the first contact with the parent(s) or with the alleged perpetrator(s), regardless of whether or not the first contact is in person, the investigator must:

(1) Identify himself or herself; and

(2) Advise the parent(s) or alleged perpetrator(s) of the complaints or allegations in the report while protecting the identity of the reporter.

(b) If the first contact is not in person, at the first face-to-face contact, the investigator must also:

(1) Have the Texas Department of Family and Protective Services (DFPS) identification available for inspection;

(2) Explain DFPS's role and legal responsibilities in the investigation;

(3) Discuss each allegation in the report; and

(4) Ask for a response to the allegations or an explanation of the alleged victim's situation in light of the report.

(c) Any visit to interview the parent(s) or alleged perpetrator(s) may be announced or unannounced. The investigator decides whether to announce the visit based on the nature of the allegations and the need to protect the child.

(d) If at any point in the investigation we learn that a parent may be a victim of domestic violence, the investigator will provide that parent information on available community services available to domestic violence victims.

§707.493. When will the Texas Department of Family and Protective Services directly purchase medical examinations for children during an investigation of abuse and neglect?

(a) Medical, psychological, or psychiatric examinations may be paid for by:

(1) Families who are willing to pay or to use family insurance;

(2) Local resources that make examinations available without cost; or

(3) Local funds.

(b) Medicaid may also pay for medical examinations when the child is eligible and has medical problems or injuries that require examination or treatment.
§707.495. How are dispositions made after the investigation is complete?

(a) At the end of the investigation, we must assign a disposition to each allegation identified for the investigation in order to:

(1) Specify the conclusions about the occurrence of abuse or neglect;
(2) Derive the overall disposition for the investigation; and
(3) Derive the overall role for each person with respect to the abuse or neglect that was investigated.

(b) We may make any of the following dispositions:

(1) Reason-to-believe. Based on a preponderance of the evidence, we conclude that abuse or neglect has occurred.
(2) Ruled-out. We determine, based on available information that it is reasonable to conclude that the abuse or neglect has not occurred.
(3) Unable to complete. We could not draw a conclusion whether alleged abuse or neglect occurred, because the family:
   (A) Could not be located to begin the investigation or moved and could not be located to finish the investigation; or
   (B) was unwilling to cooperate with the investigation.
(4) Unable-to-determine. We conclude that none of the dispositions specified in paragraphs (1) - (3) of this subsection are appropriate.

(c) The overall investigation disposition is the summary finding about the abuse or neglect that was investigated. The overall disposition is derived from the individual allegation dispositions in the following manner:

(1) Reason-to-believe. If any allegation disposition is "reason-to-believe the overall case disposition is "reason-to-believe".
(2) Ruled out. If all allegations dispositions are "ruled out" or are a mixture of "ruled out" and "administrative closure the overall case disposition is "ruled out".
(3) Unable to complete. If any allegation disposition is "unable to complete" and no allegation disposition is "reason-to-believe" or "unable to determine the overall investigation disposition is "unable to complete".
(4) Unable to determine. If any allegation disposition is "unable to determine" and no allegation disposition is "reason to believe the overall case disposition is "unable to determine".

(5) Administrative closure. Decisions with regard to administrative closure are made at the case level as specified in §707.489 of this subchapter (relating to How does the Texas Department of Family and Protective Services respond to reports of child abuse or neglect?). Therefore, all allegations must be disposed of by indicating that administrative closure has been selected. If any one allegation meets criteria for allegation dispositions as specified in paragraphs (1) - (4) of this subsection, a case is not eligible for administrative closure.

§707.497. What roles can be assigned to persons involved in a case after the investigation is complete?

(a) We only investigate an individual as a possible perpetrator of child abuse or neglect if the individual is:

(1) At least 10 years old; and
(2) A member of the family or household.

(b) The overall role for a person at the end of the investigation is the finding of the person's involvement in the abuse or neglect that was investigated. After we have given a disposition to all allegations, the roles for the persons involved in the abuse or neglect are derived. The following are the roles that can be derived at the end of an investigation of child abuse or neglect:

(1) Designated victim. Based on a preponderance of the evidence, we conclude that the child has been abused or neglected as defined in Texas Family Code (TFC) §261.001(1) and (4).
(2) Designated perpetrator. Based on a preponderance of the evidence, we conclude that the individual is responsible for abuse or neglect of a child for whom that person has responsibility for care, custody, or welfare as defined in TFC §261.001(5)(A)-(C).
(3) Designated victim/perpetrator. Based on a preponderance of the evidence, we conclude that the individual:
   (A) Is a child, age 10 years or older;
   (B) Is a victim as described in paragraph (1) of this subsection and has also abused or neglected other children who are in the family or household; and
   (C) Is named in the same investigation as the designated victim.
(4) Unknown (unable-to-determine). We could not determine whether the person was involved in the alleged abuse or neglect because the investigator could not determine whether or not the alleged abuse or neglect occurred.
(5) Unknown (unable to complete). We could not draw a conclusion whether alleged abuse or neglect involving the person occurred because the family:
   (A) Could not be located to begin the investigation, or moved and could not be located to finish the investigation; or
   (B) Was unwilling to cooperate with the investigation.
(6) No role. Either:
   (A) The overall disposition for the investigation is ruled out or administrative closure, as defined in §707.495 of this subchapter (relating to How does the Texas Department of Family and Protective Services respond to reports of child abuse or neglect?); in which case all persons named in allegations are given the role of "no role";
   (B) We have determined that based on the available information, it is reasonable to conclude that the individual was not a victim of child abuse or neglect or is not responsible for abuse or neglect of a child in the investigation; or
   (C) The person was not alleged to have abused or neglected a child in the case.

§707.499. Who will be notified of the investigation results?

(a) Required notification in abbreviated ruled out and thorough investigations.

PROPOSED RULES  March 6, 2020  45 TexReg 1633
(1) We must notify the following parties about the findings of an abbreviated ruled out or thorough investigation unless one of the exceptions specified in subsection (d) of this section apply:

(A) Each parent or other person with primary or legal responsibility for each alleged victim or alleged perpetrator who is a minor;

(B) Each person identified as an alleged perpetrator. For an alleged perpetrator who is a minor, the notice may be sent to the child's parents or other person with primary or legal responsibility for the child; and

(C) The reporter, if the reporter's identity is known.

(2) We must provide notice to the persons specified in paragraph (1) of this subsection within 15 days after the investigation is closed by the supervisor.

(b) Required notification in administratively closed investigations.

(1) We must notify the following parties about the findings of an investigation that was closed administratively unless one of the exceptions specified in subsection (d) of this section apply:

(A) Each parent or other person with primary or legal responsibility for each alleged victim or alleged perpetrator who is a minor; and

(B) The reporter, if the reporter's identity is known.

(2) We must provide notice to the parents or other person with primary or legal responsibility for each alleged victim or alleged perpetrator who is a minor no later than 24 hours after the investigation is closed by the supervisor and to the reporter within 15 days.

(c) Optional provision of investigation findings upon request.

(1) We may provide information about the investigation to each parent or other person with primary or legal responsibility for any child in the home under investigation, at the request of the parent or person with primary or legal responsibility of the child, unless one of the exceptions specified in subsection (d) of this section exists. We may provide information from the investigation to the extent we deem necessary for the protection and care of the child when such information is necessary to meet the child's needs.

(2) We must not release information that is subject to redaction under §700.204, Subchapter B, Chapter 700 of this title (relating to Redaction of Records Prior to Release).

(d) Exceptions to providing notification.

(1) During the investigation, we were unable to locate the person entitled to notification despite having made reasonable efforts to locate the person.

(2) Notwithstanding requirements to notify certain persons of investigation results, we will not provide the notice when we determine that the notice is likely to endanger the safety of any child in the home, the reporter, or any other person who participated in the investigation of the report. This safety exception does not apply to a designated perpetrator entitled to receive notice under subsection (f) of this section, or to a former alleged perpetrator entitled to receive notice under subsection (g) of this section.

(3) We may delay notification of a person entitled to notification under this section if a law enforcement agency requests the delay because timely notification would interfere with an ongoing criminal investigation. We may delay notification only in those circumstances in which the law enforcement agency agrees to notify us at the earliest time that the delay is no longer needed. We must provide the notification within 15 days after the date on which we are notified that the law enforcement agency has withdrawn the request to delay the notification.

(4) We will not provide required notifications or optional information about findings under this section if an investigation is being closed administratively because the report was referred for investigation to another authorized entity, such as law enforcement or another state agency.

(e) Form of notification. Notifications about the findings of an investigation may be either written or oral, except the notifications in paragraphs (1) - (2) of this subsection must be provided in writing:

(1) Written notification of the designated perpetrator, or designated victim perpetrator; and

(2) Written notification of an alleged perpetrator when all allegations in the case involving the person as an alleged perpetrator have been ruled out.

(f) Required written notification of the designated perpetrator. We must give written notice of the findings of the investigation to everyone who has been identified as a designated perpetrator as specified in §707.497(b)(2) or (3) of this subchapter (relating to What roles can be assigned to persons involved in a case after the investigation is complete?). For a designated perpetrator who is a minor, the notice is sent to the child's parents or other person with primary or legal responsibility for the child.

(g) Required written notification of an alleged perpetrator when all allegations involving the person as an alleged perpetrator have been ruled out. We must give written notice of the right to request removal of role information to each person who was identified as an alleged perpetrator when all the allegations in the case involving the person as an alleged perpetrator have been ruled out. If the person is a minor, the notice may be sent to the minor's parents.

(h) Notifying the reporter. If the reporter is a professional working with the family, notification to the reporter discloses only:

(1) That we investigated the report; and

(2) Whether we provided services to the family during the investigation or plan to provide services to the family after the investigation.

§707.501. When are risk and safety assessments conducted?

(a) Overview. During an investigation, we must assess both the immediate safety of the children in the home and the risk of recurrence of abuse or neglect.

(1) Assessing safety. We conduct a formal safety assessment to assess the presence or absence of danger indicators in the home during each contact with the family to determine whether the child is safe in the home.

(2) Assessing risk. Unless the conditions specified in subsection (b) of this section exist, we conduct a formal risk assessment to assess the likelihood that abuse or neglect will recur in the foreseeable future.

(b) When we do not complete a formal risk assessment. When any of the following conditions exists, we are not in a position to assess the likelihood that abuse or neglect will recur in the foreseeable future:

(1) The disposition of the allegations of child abuse or neglect is "unable to complete," as defined in §707.495 of this subchapter.
The family cannot protect the child from abuse or neglect in the immediate or short-term future without assistance.

(g) Documentation of spouse or partner abuse. The investigator must document an occurrence or history of spouse or partner abuse during the risk assessment. The documentation contains information obtained during the investigation as it relates to principals within that case.

§707.503. When will we intervene for the purpose of providing immediate or short-term protection to a child?

(a) We will intervene to provide for a child's immediate or short-term safety when:

1. The child is at risk of abuse or neglect in the immediate or short-term future; and

2. The child's family is unwilling or unable to protect the child without intervention.

(b) When a child needs immediate or short-term protection as specified in subsection (a) of this section, we must complete a safety assessment, develop a plan to provide for the child's immediate or short-term safety, and ensure that the plan is implemented. This includes situations where the method of assuring the child's short-term protection is to remove the alleged perpetrator from the home, either voluntarily or by court order.

§707.505. What are the requirements for an administrative review of investigation findings?

(a) The purpose of an Administrative Review of Investigation Findings (ARIF) is to provide an informal review process for a person who has been designated as a perpetrator or victim/perpetrator of child abuse or neglect as specified in §707.497(b)(2) or (3) of this subchapter (relating to What roles can be assigned to persons involved in a case after the investigation is complete?).

(b) To be eligible, you must request an ARIF, in writing, within 45 days after receiving notice of the findings of the investigation. If you are 18 years of age or older and are requesting an ARIF to challenge a reason-to-believe finding made against you when you were a minor, your request will be considered timely and we will grant your request if you have not previously had an ARIF and are not otherwise found ineligible.

(c) You will not be entitled to an ARIF for a finding of abuse or neglect if a court of competent jurisdiction has already issued a ruling consistent with that specific finding.

(d) Except as provided in subsection (f) of this section, within 45 days after the date we receive your request for an ARIF, we must:

1. Conduct the ARIF; or

2. Notify you that your request has been denied because you are not eligible for an ARIF, as specified in this section.

(e) After you submit a written request for an ARIF, a resolution specialist will contact you to schedule the review. If the resolution specialist is unable to make contact with you and you do not respond to the attempts to make contact within 30 days of the initial attempt, we will not proceed with the review and you will waive your right to an ARIF. If you subsequently contact us after the above-specified timeframe, the resolution specialist may reschedule the review if the resolution specialist determines that you had a good reason for exceeding the timeframe.

(f) We may postpone an ARIF when there is a pending civil or criminal suit or an ongoing criminal investigation relating to the same

PROPOSED RULES  March 6, 2020  45 TexReg 1635
acts or omissions involved in the finding of abuse or neglect or we find that there is other good cause for extending the deadline. If we decide to postpone the ARIF, the resolution specialist will notify you in writing within 45 days after receiving your request for an ARIF. If the ARIF is postponed due to a pending civil or criminal suit or ongoing criminal investigation, the notification will indicate the length of time of the delay or specify that you must notify us when the court case has been completed or the criminal investigation has been closed, as appropriate. The resolution specialist will review your eligibility for an ARIF after the delay. If you are determined eligible for an ARIF, it must be conducted within 45 days from notification of the completion of the suit or criminal investigation that caused the postponement.

(g) The ARIF is conducted by a DFPS employee (the "resolution specialist") who was not involved in the investigation and did not directly supervise the investigation. The ARIF is an informal review in which the participants may appear, make statements, provide relevant written materials, and ask questions. You have the right to bring a legal representative and a support person to the review. The support person may not participate in the review. If you are a minor, your parent or guardian may also speak on your behalf during the review. Any witnesses that you have must submit their statements in writing to the resolution specialist.

(h) The resolution specialist may review the investigation case record, ask questions, and gather other relevant information. The formal rules of evidence do not apply and the review does not include formal witness testimony. The resolution specialist may consider all allegations relating to the investigation, including allegations that were "reason-to-believe" "unable-to-determine" or "ruled-out" at the conclusion of the investigation, and the evidence gathered during the investigation and the ARIF process. The resolution specialist must confirm that decisions of "reason-to-believe" are supported by a preponderance of the evidence.

(i) After completing the ARIF, the resolution specialist must timely issue a written decision that upholds, reverses, or alters the original investigation findings. The resolution specialist only reviews and issues a written decision on findings pertaining to you. An original finding of "reason-to-believe" for abuse or neglect may be upheld, or may be reversed to a finding of either "unable-to-determine" or "ruled-out". A finding may be altered with respect to the type of abuse or neglect found to have occurred. For example, an original finding of "reason-to-believe" for "physical abuse" of a child may be altered to a finding of "reason-to-believe" for "neglectful supervision" of the child.

(j) If the resolution specialist's decision reverses or alters any of the original investigation findings, we must change our records regarding the outcome of the investigation to reflect the resolution specialist's decision.

(k) Notwithstanding anything in this section, if you are entitled to an administrative hearing before the State Office of Administrative Hearings (SOAH), we may waive the ARIF and proceed directly to the SOAH hearing.

§707.507. What notification requirements apply to an investigation of a person that also has placement of child(ren) in the managing conservatorship of the Texas Department of Family and Protective Services (DFPS) or is a DFPS foster or adoptive home?

(a) If there is a reason-to-believe finding of abuse or neglect of a child that is not in the managing conservatorship of the Texas Department of Family and Protective Services (DFPS) and the home also has children that are in DFPS's managing conservatorship, we must notify:

(1) The court having jurisdiction;

(2) The attorney ad litem;

(3) The guardian ad litem, if one is appointed; and

(4) The child's parents.

(b) If a law enforcement investigation of a report of abuse or neglect involving a child in a DFPS foster or pre-consummated adoptive home results in criminal indictment of either of the foster or adoptive parents, DFPS will close the home unless the regional director, in consultation with a Child Protective Services State Office Director, determines that there is not a continuing risk of substantial harm to children placed there and the indicted perpetrator is out of the home.

§707.509. What standards for conducting investigations of abuse and neglect apply to the Investigations program?

To encourage professionalism and consistency in the investigation of reports of child abuse and neglect, as specified in the Texas Family Code (TFC) §261.310, the Texas Department of Family and Protective Services adopts the following standards for individuals who investigate reports of child abuse and neglect:

(1) Each individual responsible for investigating reports of child abuse and neglect, or for conducting interviews during investigations of child abuse and neglect, must receive a minimum of 12 hours of professional training every year.

(2) The professional training curriculum for individuals who conduct investigations or investigation interviews must include information about:

(A) Abuse and neglect as defined in TFC §261.001 including the distinction between:

(i) Physical injuries resulting from abuse; and

(ii) Ordinary childhood injuries;

(B) Abuse involving mental or emotional injury as defined in TFC §261.001(1);

(C) Available treatment resources;

(D) The types of child abuse and neglect reported to DFPS, including information about the receipt of false reports;

(E) Forensic interviewing and investigatory techniques and the collection of physical evidence; and

(F) Federal child welfare laws.

(3) All investigatory interviews that are recorded should be recorded:

(A) Accurately, without interruption; and without alteration;

(B) Should be made on equipment that is capable of making an accurate recording; and

(C) Should be made by a person that is competent to make the recording.

(4) In accordance with Subchapter E of Chapter 264, Texas Family Code, investigators should:

(A) Utilize Children's Advocacy Centers when appropriate and follow protocols to minimize the number of interviews with a child; and

(B) Be thorough and exercise professional judgment and expertise in determining the nature, extent, and number of interviews and examinations of suspected child abuse victims.

(5) All documents generated during investigations must be maintained according to the Investigations published records retention schedule, including:
(A) Original tape recordings of telephone intakes;
(B) Any recordings of interviews; and
(C) Worker case notes regarding the investigation.

(6) Investigators must make a reasonable effort to locate and notify each parent of an alleged victim of the report of abuse or neglect relating to the child victim.

§707.511. On whom do we conduct criminal history records checks during the course of an investigation?

(a) As provided in Government Code §411.114, we must obtain criminal history record information maintained by the Texas Department of Public Safety (DPS) regarding an alleged perpetrator unless the alleged perpetrator is a victim/perpetrator in the report.

(b) When necessary to complete a safety assessment, risk assessment, family assessment, or other assessment (including home studies or child care arrangements), we are entitled to obtain criminal history record information maintained by DPS regarding any of the following parties:

1. Persons living in the residence in which the alleged victim resides;
2. Persons providing, at the request of the child's parent, in-home care for an alleged child victim; and
3. Persons providing, at the request of the child's parent, in-home care for a child, as long as the person provides written consent to the release and disclosure of the information.

(c) For purposes of this rule, the term "residence" means "household" as that term is defined in §707.451(b)(8) of this subchapter (relating to What terms and definitions are used in reports, investigations, and assessments of abuse and neglect?).

(d) In addition to criminal history record information that we obtain from the DPS, we may also obtain information from the Federal Bureau of Investigation and any other criminal justice agency, subject to any limitations provided by law.

§707.513. What provisions govern the release and maintenance of records generated in conjunction with an investigation conducted by Investigations?

(a) Investigation records are confidential case records pursuant to the federal Child Abuse Prevention and Treatment Act and Texas Family Code (TFC) §261.201, and as further provided in Subchapter B, Chapter 700, of this title (relating to Confidentiality and Release of Records).

(b) We will withhold or release confidential case records that are gathered and maintained in response to a report of abuse or neglect of a child, as authorized by state and federal law, and in accordance with governing rules in Subchapter B, Chapter 700.

(c) The Texas Department of Family and Protective Services maintains investigation records in accordance with its published records retention schedule.

§707.515. How does the Texas Department of Family and Protective Services assign roles upon receipt of a report alleging child abuse or neglect?

When a report of abuse or neglect is initially received by the Statewide Intake division of the Texas Department of Family and Protective Services (DFPS), each person named in the report is assigned one of the following roles:

1. Alleged victim. An alleged victim is a child who is suspected of being a victim of abuse or neglect as defined in Texas Family Code (TFC) §261.001(1) and (4).

2. Alleged perpetrator. An alleged perpetrator is a person responsible for the child's care, custody, or welfare as defined in TFC §261.001(5)(A)-(C), who is suspected of committing the alleged abuse or neglect.

3. Alleged victim/perpetrator. An alleged victim/perpetrator is a child 10 years of age or older who is suspected of both:

   (A) being a victim as described under subsection (a) of this section; and
   (B) abusing or neglecting other children in the family/household named in the same report.

4. Unknown. A person with the role of unknown is a person whose actions with regard to the alleged abuse or neglect are not known by the reporter. The person may or may not have played a part in the suspected abuse or neglect.

5. No Role. A person with the role of no role is a person, according to the reporter, who could clearly not have had a role in the alleged abuse or neglect.

§707.517. When is a person alleged to have committed abuse or neglect of a child entitled to request that we remove information from our records regarding that person's role as an alleged perpetrator in an investigation?

(a) Pursuant to Texas Family Code §261.315, you will be entitled to request removal of information from our records concerning your role as an alleged perpetrator in an investigation if all of the allegations against you in that investigation are ruled-out:

1. At the conclusion of the investigation which has been approved for closure by a supervisor;
2. As the result of an administrative review of investigation findings conducted pursuant to §707.505 of this subchapter (relating to What are the requirements for an administrative review of investigation findings?);
3. As the result of a review conducted by the Office of Consumer Relations under Division 3, Subchapter I, Chapter 702, of this title (relating to Office of Consumer Affairs Review of Perpetrator Designation);
4. As the result of a due process hearing, when eligible, as provided in Subchapter F, Chapter 700, of this title (relating to Release Hearings); or
5. As the result of any other final ruling which has the legal effect of ruling out all allegations against you from that investigation.

(b) Within 15 days following the conclusion of an investigation or other final ruling as described in subsection (a) of this section, we will mail a written notice to you informing you of your right to request removal of certain information and of the procedures which you must follow in order to exercise that right. If you are a minor, we will send the notice to your parents or other person with primary or legal responsibility.

(c) A request to remove role information shall not be deemed to be properly made unless you:

1. Submit the request on a completed form prescribed by us and provided to you for this purpose, or submit a written request containing substantially equivalent information which allows us to locate the investigation in question and which clearly states the purpose of the request;
2. Sign the request, or your parents or other person with primary or legal responsibility sign the request if you are a minor; and
Mail or deliver the request to us to the address prescribed on the form for this purpose within 45 days after the mailing date of the notice required in subsection (b) of this section.

(d) Upon receipt of a request for removal of role information which meets all of the criteria set forth in subsection (c) of this section, we will initiate procedures to remove any information from our records which tend to reveal that you were named as an alleged perpetrator of abuse and neglect in the investigation in which all allegations against you were ruled out. We will complete the process of removal of role information within 90 days from receipt of a properly submitted request.

(e) During the period of time following the receipt of a request properly made under subsection (c) of this section, and prior to the completion of the removal of information required in subsection (d) of this section, we will not release any information which is subject to removal under subsection (d) of this section to anyone who might otherwise be entitled to receive a copy of the investigation records, unless we are ordered to release that information pursuant to a valid court order.

(f) A request for removal of role information which does not meet the criteria set out in subsection (c) of this section will be denied. Notice of the denial and the reasons for the denial will be provided to you within 30 days of us receiving the request for removal.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 21, 2020.

TRD-202000743
Audrey Carmichael
General Counsel
Department of Family and Protective Services
Earliest possible date of adoption: April 5, 2020
For further information, please call: (512) 438-3805

DIVISION 2. ALTERNATIVE RESPONSE


The modification is proposed under Human Resources Code (HRC) §40.027, which provides that the Department of Family and Protective Services commissioner shall oversee the development of rules relating to the matters within the department's jurisdiction and notwithstanding any other law, shall adopt rules for the operation and provision of services by the department.

No other statutes, articles, or codes are affected by the proposed rules.

§707.549. What do the following pronouns mean when used in this division?
The following words have the following meanings when used in this division: We, us, and our--The Investigations program of the Child Protective Investigations division of the Texas Department of Family and Protective Services unless otherwise stated or the context clearly indicates otherwise.

§707.551. What is alternative response?
Alternative response is a type of protective intervention conducted by the Investigations program of the Child Protective Investigations division of the Texas Department of Family and Protective Services (DFPS) in response to allegations of abuse or neglect of a child by a person responsible for the child's care, custody or welfare as defined in TFC §261.001(5)(A)-(C), that is an alternative to an abbreviated or thorough investigation as described in §707.489 of this subchapter (relating to How does the Texas Department of Family and Protective Services respond to reports of child abuse or neglect?). Cases that are handled with alternative response:

(1) do not result in a formal disposition of the allegations of abuse or neglect as provided in §707.495 of this subchapter (relating to How are dispositions made after the investigation is complete?) or in the designation of a perpetrator as described in §707.497 of this subchapter (relating to What roles can be assigned to persons involved in a case after the investigation is complete?);

(2) do not result in the listing of any individual on the child abuse and neglect central registry described in Subchapter C, Chapter 702, of this title (relating to Child Abuse and Neglect Central Registry); and

(3) focus on short-term collaboration with and engagement of families in order to empower them to ensure the safety of their children.

§707.553. Which cases may be conducted as an alternative response?

(a) We may conduct an alternative response to any allegation of abuse or neglect that meets the criteria for investigation by us pursuant to Chapter 261, Texas Family Code, and division 1 of this subchapter (relating to Intake, Investigation, and Assessment), provided that:

(1) the case is assigned a priority other than Priority I;

(2) the case does not involve a child under the age of six.

If a child under six is found to be living in a home after the alternative response has been initiated, we will continue the alternative response unless there are allegations of physical or sexual abuse;

(3) there is no open investigation, Family Based Safety Services case, or conservatorship case involving the family; and

(4) the case is not excluded pursuant to subsection (b) of this section.

(b) We will not conduct or continue to conduct an alternative response if any of the following conditions are present:

(1) there is a current allegation of sexual abuse or risk of sexual abuse;

(2) the current report or alternative response involves a child fatality that is alleged to be the result of abuse or neglect;

(3) the current report or alternative response involves a family or household member who is a designated or sustained perpetrator of physical abuse that led to a child fatality in a previous investigation;

(4) there is a current allegation or other credible information indicating a risk of serious physical injury or immediate serious harm to a child who is the subject of the alternative response;

(5) An investigation is required to be conducted pursuant to Texas Family Code §261.406 and Subchapter B of this chapter (relating to School Investigations) or pursuant to Subchapter C of this chapter (relating to Child Care Investigations); or

(6) The alleged perpetrator is a foster parent or prospective adoptive parent.
(c) We may exclude a case for one of the conditions identified in subsection (b) of this section at the point the intake is received or screened, or based on information discovered during the conduct of the alternative response.

§707.555. Can a case initially assigned for an alternative response be conducted as an investigation?
Yes. We may, in our sole discretion, at any time route a case that is assigned for and otherwise appears to meet the criteria for alternative response to be conducted as a thorough investigation. A non-exhaustive list of the factors we may consider in deciding to change a case from an alternative response to an investigation includes:

1. inability to assess the safety of the child who is the subject of the report;
2. inability to locate or reach the family;
3. increased risk of abuse or neglect; or
4. a change in household composition.

§707.557. Which provisions govern the conduct of an alternative response?
(a) Unless otherwise specified or the context clearly indicates otherwise, an alternative response is governed solely by the provisions in this division and Texas Family Code (TFC) §261.3015.

(b) An alternative response is an investigatory response for which DFPS is exempt from the payment of fees for records in accordance with TFC §261.316.

§707.559. What are the basic components of an alternative response?
An alternative response entails:

1. assessment of the family, including in every instance an assessment of the safety of the child who is the subject of the report; and
2. where indicated and in collaboration with the child’s family, identification of any necessary and appropriate services or supports to reduce the risk of future harm to the child.

§707.561. What investigative actions may be taken when conducting an alternative response?
(a) When conducting an alternative response, we may take any protective action authorized for an investigation that is necessary for the protection of a child, including but not limited to:

1. removing the child;
2. facilitating a parental child safety placement;
3. obtaining a court order in aid of investigation; or
4. obtaining a court order to participate in services.

(b) We may take any appropriate protective action either prior to or following the transfer of the case to be handled as an investigation.

(c) We may contact and obtain information and records from any person we are authorized to obtain information or records from while conducting an investigation pursuant to division 1 of this subchapter (relating to Intake, Investigation, and Assessment). However, to the greatest extent possible while ensuring child safety, we attempt to obtain information and records in collaboration with the family and in a manner that is least intrusive to the family.

(d) We are not required to attempt to find or notify a parent who does not reside in the home of a family for whom we are conducting an alternative response.

§707.563. Does Investigations maintain written records from an alternative response?
Yes. We must maintain a written record of an alternative response.

§707.565. What provisions govern the release and maintenance of records generated in conjunction with an alternative response?
(a) Records of an alternative response are confidential case records as provided by Texas Family Code (TFC) §261.201, and as further provided in Subchapter B, Chapter 700, of this title (relating to Confidentiality and Release of Records).

(b) We will withhold or release confidential alternative response case records in the same manner as other records that are gathered or maintained in response to a report of abuse or neglect of a child, as authorized by state and federal law, and in accordance with governing rules in Subchapter B, Chapter 700.

(c) We maintain alternative response case records in accordance with our published records retention schedule. We may utilize information from an alternative response if alternative response case records are available and we receive a subsequent report of abuse or neglect involving a person who participated in an alternative response case.

(d) Notwithstanding any other provision of this chapter, we do not release alternative response case records in response to a request for information received pursuant to TFC §261.308(e).

§707.567. What occurs when an alternative response is complete?
When an alternative response is complete:

1. we provide notification of case completion to the family for whom the alternative response was conducted; and
2. we may refer the case, in consultation with the family, for additional services that may be necessary to ensure the child’s safety.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency’s legal authority to adopt.

Filed with the Office of the Secretary of State on February 21, 2020.

TRD-202000744
Audrey Carmical
General Counsel
Department of Family and Protective Services
Earliest possible date of adoption: April 5, 2020
For further information, please call: (512) 438-3805

SUBCHAPTER B. SCHOOL INVESTIGATIONS


The modification is proposed under Human Resources Code (HRC) §40.027, which provides that the Department of Family and Protective Services commissioner shall oversee the development of rules relating to the matters within the department’s jurisdiction and notwithstanding any other law, shall adopt rules for the operation and provision of services by the department.

No other statutes, articles, or codes are affected by the proposed rules.

§707.597. What do the following pronouns mean when used in this subchapter?
The following words have the following meanings when used in this subchapter: We, us, and our—the Special Investigations program of the Child Protective Investigations division of the Texas Department of Family and Protective Services unless otherwise stated or the context clearly indicates otherwise.

§707.599. What is the purpose of Subchapter B of this chapter?
(a) The purpose of this subchapter is to:
(1) Define abuse and neglect of children by school personnel or volunteers in a school setting;
(2) Describe procedures for the report, investigation, and review of such allegations pursuant to Chapter 261, Texas Family Code; and
(3) Describe related procedures.
(b) For purposes of a school investigation, school personnel and volunteers are defined in §707.605(a)(6) of this subchapter (relating to What do the following terms mean when used in this subchapter?)

§707.601. Who conducts investigations of a report alleging abuse or neglect of a child by school personnel or volunteers in a school setting?
The Special Investigations program of the Texas Department of Family and Protective Services' Child Protective Investigations division investigates allegations of abuse or neglect of a child by school personnel or volunteers in a school setting.

§707.603. What standards for conducting investigations of abuse and neglect apply to the Special Investigations program?
The Special Investigations program follows the investigation standards provided in §707.599 of subchapter A of this chapter (relating to What do the following terms mean when used in this subchapter?).

§707.605. What do the following terms mean when used in this subchapter?
(a) The following terms and definitions apply to school investigations:
(1) Alleged perpetrator—A person who is alleged or suspected of being responsible for the abuse or neglect of a child.
(2) Alleged victim—A child who is alleged to be the victim of abuse or neglect.
(3) Child—A person under 18 years of age who is not and has not been married or who has not had the disabilities of minority removed for general purposes.
(4) Preponderance of evidence—Evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not.
(5) Reporter—An individual who makes a report to the Texas Department of Family and Protective Services or a duly constituted law enforcement agency alleging the abuse or neglect of a child. If more than one individual makes a report alleging abuse or neglect of the same child, all such individuals shall have the designation of a reporter.
(6) School personnel and volunteers—Persons who have access to children in a school setting and are providing services to or caring for the children. School personnel include but are not limited to school employees, contractors, school volunteers, school bus drivers, school cafeteria staff, and school custodians.
(7) School setting—The physical location of a child's school or of an event sponsored or approved by the child's school, or any other location where the child is in the care, custody, or control of school personnel in their official capacity, including transportation services. This does not include:
(A) school settings involving only children in facilities regulated by the Texas Health and Human Services Commission (HHSC) when HHSC contracts with the local school district to provide education services; or
(B) school settings that are a part of child care operations regulated by the Child Care Licensing division of HHSC.
(b) Terms used in this division that are not defined in this division shall have the meanings assigned to those terms in Chapters 261 and 261, Texas Family Code, and in Division 1 of Subchapter A of this chapter (relating to Intake, Investigation, and Assessment) unless the context clearly indicates otherwise.

§707.607. How is child abuse and neglect defined for the purpose of a school investigation?
(a) For the purpose of an investigation in a school setting, the terms abuse and neglect shall have the meaning assigned to those terms in the Texas Family Code §261.001(1) and (4), as those terms are further defined in Division 1 of Subchapter A of this chapter (relating to Intake, Investigation, and Assessment), unless the definition is clearly inapplicable to reports of abuse or neglect in school settings or as otherwise provided in this subchapter.
(b) Abuse and neglect in this context do not include the following:
(1) Use of restraints or seclusion that do not meet the statutory definitions of child abuse or neglect;
(2) Actions that school personnel or volunteers at the child's school reasonably believe to be immediately necessary to avoid imminent harm to the child or other individuals, if the actions:
(A) are limited only to those actions reasonably believed to be necessary under the existing circumstances; and
(B) do not include any acts of unnecessary force or the inappropriate use of restraints or seclusion, such as the use of restraints or seclusion as a substitute for lack of staff;
(3) Reasonable discipline.
(c) Notwithstanding subsection (b) of this section, if there are allegations in the report that otherwise meet the definition of "abuse" or "neglect" by school personnel or volunteers in a school setting, those allegations will be investigated in accordance with this subchapter.

§707.609. When will a report of alleged abuse or neglect occurring in a school setting be assigned for investigation?
(a) A report of alleged abuse or neglect occurring in a school setting will be assigned for investigation if the following criteria are met:
(1) The allegations meet the definitions of abuse or neglect contained in §707.607 of this subchapter (relating How is child abuse and neglect defined for purpose of a school investigation?);
(2) The alleged perpetrator is a person meeting the definition of school personnel or volunteers at the child's school;
(3) The alleged victim is a child or was a child at the time that the alleged abuse or neglect occurred;
(4) The alleged abuse or neglect occurred in a school setting;
(5) The alleged abuse or neglect occurred during the current school year or there is a likelihood that sufficient evidence can
still be obtained to establish whether or not abuse or neglect occurred in a school setting: and

(6) The same allegations involving the school setting was not already investigated by us.

(b) A report of alleged abuse and neglect which does not meet the criteria for investigation specified in this section shall be referred to an appropriate law enforcement entity or other investigating agency in accordance with Texas Family Code §261.105.

(c) When we do not accept a report for investigation, we will notify the reporter verbally or in writing of the reason the report will not be investigated and that the reporter may discuss concerns about the decision with the supervisor.

§707.611. Who must be notified when the Texas Department of Family and Protective Services receives a report of child abuse or neglect in a school setting?

We must provide notification of all school-related reports of child abuse or neglect to the law enforcement entity with jurisdiction for criminal investigations in the geographical area where the alleged incident occurred, within the time frames set out in §707.487 of subchapter A of this chapter (relating to Does the Texas Department of Family and Protective Services notify law enforcement of all reports received of child abuse or neglect?).

§707.613. What are the priorities and time frames for initiating school investigations?

We must assign a priority to all reports accepted for investigation, and must initiate an investigation within the corresponding time frame, as specified in §707.485 of Subchapter A of this Chapter (relating to What are the timeframes within which the Investigations program must respond to a report of child abuse or neglect assigned for investigation?). Prior to initiating an investigation, we will review the intake report to determine if the initial priority and action recommended is appropriate or must be updated.

§707.615. Which school personnel must be notified prior to initiating a school investigation?

(a) Prior to conducting an investigation under this subchapter, we must notify the school principal (or the principal’s supervisor if the school principal is an alleged perpetrator) of the fact that a report has been assigned for investigation, the nature of the allegations contained in the report, and the date and time when the investigator plans to visit the school campus to begin the investigation.

(b) We must also orally notify the superintendent of the school district about the investigation. If the alleged perpetrator is an employee of a charter school, we must orally notify the director of the charter school of the investigation. If the alleged perpetrator is an employee of a private school, we must orally notify the chief executive officer of the private school of the investigation.

(c) We must request that the school personnel notified of the investigation as provided in subsections (a) and (b) of this section not alert the alleged perpetrator or others regarding the report until the Special Investigator has had an opportunity to interview the alleged perpetrator.

§707.617. How are school investigations conducted?

(a) An investigation conducted under this subchapter shall include the following investigative steps unless the allegations of child abuse and neglect can be clearly confirmed or ruled-out without recourse to one or more of these steps:

(1) Obtain a full statement of the allegation from the reporter, as appropriate to the case.

(2) Interview and visually inspect each alleged victim, as appropriate in the case.

(3) Interview any other witnesses or persons who may have collateral information, including the child’s parents or guardian.

(4) Interview the alleged perpetrator, if available.

(5) Obtain photographs, school records, or other pertinent physical evidence, if relevant to the investigation.

(6) Request that a parent of an alleged victim obtains a medical, psychological, or psychiatric examination of the child and that the records of such examination be provided to the Special Investigator, if necessary, to properly investigate the allegations in the case.

(7) Request that the alleged perpetrator submit to a medical, psychological, or psychiatric examination and that the records of such examination be provided to the Special Investigator, if necessary, to properly investigate the allegations in the case; and

(8) Cooperate with law enforcement in the event that law enforcement is conducting a joint investigation regarding the allegations.

(b) We will conduct a criminal history background check on the alleged perpetrator in accordance with Texas Government Code, §411.114, and §707.511 of subchapter A of this chapter (relating to On whom do we conduct criminal history records checks during the course of an investigation?).

(c) The Special Investigator must complete the investigation, reach a disposition as to each allegation made in the report, and submit the investigation report and findings to a supervisor for approval within 30 calendar days after initiating the investigation unless an extension of time is approved by the supervisor due to extenuating circumstances. The supervisor must approve the investigation or return it to the Special Investigator for further action within 10 calendar days of receiving the investigative report. If the tenth day falls on a weekend or state holiday, the supervisor has until the next working day to complete the required review.

(d) Notwithstanding any other provision in this section, an investigation may be closed administratively as provided by §707.489 of subchapter A of this chapter (relating to How does the Texas Department of Family and Protective Services respond to reports of child abuse or neglect?) or at any point during the investigation if it becomes apparent after initiating the investigation that the allegations made in the report do not, in fact, meet one or more of the criteria for investigation specified in §707.609 of this subchapter (relating to When will a report of alleged abuse or neglect occurring in a school setting be assigned for investigation?). If a case is closed administratively, all allegations in the case are given the disposition of "administrative closure".

§707.619. What procedures apply when we conduct an interview or examination during a school investigation?

(a) School officials or other persons related to the school setting may not interfere with an investigation of a report of child abuse or neglect conducted by the Texas Department of Family and Protective Services, pursuant to Texas Family Code §261.303. Interference with Investigation; Court Order. Interviews and examinations in a school investigation may take place on or off the school premises, as deemed appropriate by the Special Investigator, pursuant to all applicable standards. The Special Investigator must notify appropriate school personnel prior to conducting an interview or visual inspection on school premises. The Special Investigator may request that school personnel or volunteers not be present during the interview or visual inspection of an alleged victim, an alleged perpetrator, an adult or child witness,
or any other person who may have information relevant to the investigation if the Special Investigator determines that:

1. The presence of school personnel or volunteers would compromise the integrity of the investigation; or

2. A better interview or examination of the child would result without school personnel or volunteers being present.

(b) Notwithstanding subsection (a) of this section, if the school is not under the jurisdiction of the Texas Education Agency, the Special Investigator must have consent or a court order to conduct the interview and visual inspection of the child unless DFPS has a reason to believe that the child is in immediate danger of physical or sexual abuse.

(c) The Special Investigator must comply with the requirements in §707.491(b) of Subchapter A of this Chapter (relating to What procedures apply when the investigator makes contact with and conducts interviews of parent(s) and alleged perpetrator(s) during an investigation?).

§707.621. How do we make dispositions and assign roles in a case after completing the investigation?

(a) At the conclusion of the investigation, the Special Investigator must assign an individual disposition to each allegation of abuse or neglect, as well as an overall disposition to the investigation.

(b) We use the following allegation dispositions for investigations in school settings:

1. Reason-to-believe;

2. Ruled-out;

3. Unable to complete;

4. Unable to determine; and

5. Administrative closure.

(c) The overall investigation disposition is the summary finding about the abuse or neglect that was investigated. The overall disposition is determined in the following manner:

1. Reason-to-believe. If any allegation disposition is "reason-to-believe", the overall investigation disposition is "reason-to-believe".

2. Unable-to-determine. If any allegation disposition is "unable-to-determine" and no allegation disposition is "reason-to-believe", the overall investigation disposition is "unable-to-determine".

3. Unable to complete. If any allegation disposition is "unable to complete" and no allocation disposition is "reason-to-believe" or "unable-to-determine", the overall investigation disposition is "unable to complete".

4. Ruled-out. If all allegation dispositions are "ruled-out", the overall investigation disposition is "ruled-out".

5. Administrative closure. The overall disposition of an investigation is "administrative closure" if all individual allegations in the investigation are given the disposition of "administrative closure".

(d) The overall role for the alleged perpetrator and alleged victim at the end of an investigation in the school setting is the summary finding about the person's involvement in the abuse or neglect that was investigated. An individual's overall role is determined as follows:

1. Designated perpetrator—When any allegation involving the alleged perpetrator is "reason-to-believe".

2. Designated victim—When any allegation involving the alleged victim is "reason-to-believe".

3. Unknown (unable-to-determine)—When any allegation involving the person is "unable-to-determine" and no allegation involving the person is "reason-to-believe".

4. Unknown (unable to complete)—When any allegation involving the person is "unable to complete" and no allegation involving the person is "reason-to-believe" or "unable-to-determine".

5. No role—When all allegations involving the person are "ruled-out" or "administrative closure".

§707.623. Will school officials be notified once the investigation is completed?

(a) Yes. After the completion of an investigation, the Texas Department of Family and Protective Services (DFPS) is statutorily required to provide a report of the investigation, redacted to remove the identity of the reporter, to either:

1. The Texas Education Agency (Director of Education Investigations) for an investigation concerning an employee of a public or charter school; or

2. The school's chief executive officer for an investigation concerning an employee of a private school, unless the chief executive officer is the alleged perpetrator.

(b) On request, DFPS must also provide a redacted copy of the report to the following:

1. State Board for Educator Certification;

2. President of the local school board or local governing body for the school;

3. The superintendent of the school district; and

4. The school principal, unless the principal is the alleged perpetrator.

(c) If the overall investigation disposition is "reason-to-believe", the report must include information about the designated perpetrator's right to challenge the disposition through an administrative review of the investigation findings (ARIF), and through the Office of Consumer Relation's review of perpetrator designation conducted pursuant to Division 3 of Chapter 702 of this title (relating to Office of Consumer Affairs Review of Perpetrator Designation), if the finding is upheld at the ARIF. The report must also state that DFPS will notify any entity listed in subsections (a) and (b) of this section that originally received a copy of the report of the investigation in the event that the dispositions are changed as a result of an ARIF or other challenge.

(d) Notwithstanding any other provision in this section, DFPS is not required to provide notice to a school official if a report of abuse or neglect is closed administratively prior to notification to any school official that a report was received by DFPS.

§707.625. How is notice provided to non-school entities when a school investigation is completed?

The Texas Department of Family and Protective Services must comply with the notification requirements contained in Chapter 261, Texas Family Code, and in §707.499 of Subchapter A of this Chapter (relating to Who will be notified of the investigation results?).

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 21, 2020.
SUBCHAPTER C. CHILD CARE INVESTIGATIONS
DIVISION 1. DEFINITIONS

40 TAC §707.01, §707.03

The modification is proposed under Human Resources Code (HRC) §40.027, which provides that the Department of Family and Protective Services commissioner shall oversee the development of rules relating to the matters within the department's jurisdiction and notwithstanding any other law, shall adopt rules for the operation and provision of services by the department.

No other statutes, articles, or codes are affected by the proposed rules.

§707.01. What do the following pronouns mean when used in this subchapter?

The following words have the following meanings when used in this subchapter:

(1) I, my, you, and your--A designated perpetrator, unless otherwise stated or the context clearly indicates otherwise.

(2) We, us, and our--The Child Care Investigations program of the Child Protective Investigations division of the Texas Department of Family and Protective Services unless otherwise stated or the context clearly indicates otherwise.

§707.03. What do the following terms mean when used in this subchapter?

(a) The following terms have the following meanings when used in this subchapter:

(1) Alleged Perpetrator--A person being investigated by us because the person is alleged to have abused, neglected, or exploited a child in a child care operation.

(2) Caregiver--A person whose duties include the supervision, guidance, and protection of a child or children.

(3) Central registry--A Texas Department of Family and Protective Services (DFPS) database of persons who have been found by DFPS to have abused, neglected, or exploited a child, including abusing, neglecting, or exploiting a child in a child care operation. See Subchapter C, Chapter 702, of this title (relating to Child Abuse and Neglect Central Registry).

(4) Child--A person under 18 years of age.

(5) Child Care Investigations (CCI)--a program of the Child Protective Investigations division of the Department of Family and Protective Services that investigates allegations of child abuse, neglect, and exploitation in child care operations.

(6) Child Care Licensing (CCL)--a department of the Regulatory Services Division of the Texas Health and Human Services Commission that regulates child care operations under Chapter 42, Human Resources Code. CCL was formerly under the Texas Department of Family and Protective Services until September 1, 2017.

(7) Child care operation--a facility, family home, or other entity that is subject to regulation by CCL under Chapter 42, Human Resources Code, regardless of whether the operation has received the necessary permit to provide the child care under that chapter.

(8) Designated perpetrator--A person on the DFPS central registry found by CCI to have abused, neglected, or exploited a child in a child care operation, but who has not exhausted the right to a due process hearing. See division 7 of this subchapter (relating to Due Process Hearings).

(9) Finding of abuse, neglect, or exploitation--A determination that we made at the completion of an investigation based on the evidence gathered that a preponderance of the evidence supports the allegation(s) of child abuse, neglect, or exploitation in a child care operation.

(10) Intake Report--An allegation of child abuse, neglect, or exploitation in a child care operation.

(11) Parent--A child's biological mother or father, adoptive mother or father, or person that has legal responsibility for or legal custody of a child, including the managing conservator or legal guardian. The term does not include a parent whose parental rights have been terminated.

(12) Preponderance of evidence--Evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not.

(13) Single-source continuum contractor (SSCC)--the entity that DFPS contracts with to provide the full continuum of foster care and case management services to children and families on behalf of Child Protective Services within a designated geographic area for purposes of implementing community-based care as defined in Texas Family Code §264.152(4).

(14) Sustained perpetrator--A person on the DFPS Central Registry found by DFPS to have abused or neglected a child in a child care operation, who has already been offered the rights to an administrative review and due process hearing, and the:

(A) Rights to the administrative review and due process hearing have expired; or

(B) Finding was upheld in the due process hearing. See division 6 and division 7 of this subchapter (relating to Administrative Reviews, and Due Process Hearings, respectively).

(15) Texas Health and Human Services Commission (HHSC) Legal Services Division, Enforcement Department--the legal division of HHSC that represents DFPS in due process hearings before an administrative law judge of the State Office of Administrative Hearings. See division 7 of this subchapter.

(b) Terms not defined in this subchapter have the meaning given in the Texas Human Resources Code, Texas Family Code, and other relevant law, or their ordinary meaning if not defined in law.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 21, 2020.

TRD-202000747
DIVISION 2.  OVERVIEW OF INVESTIGATIONS IN CHILD CARE OPERATIONS


The modification is proposed under Human Resources Code (HRC) §40.027, which provides that the Department of Family and Protective Services commissioner shall oversee the development of rules relating to the matters within the department's jurisdiction and notwithstanding any other law, shall adopt rules for the operation and provision of services by the department.

No other statutes, articles, or codes are affected by the proposed rules.

§707.711. What is the purpose of an abuse, neglect, or exploitation investigation conducted in a child care operation?

The purpose of an abuse, neglect, or exploitation investigation in a child care operation is to:

(1) Obtain sufficient information so we can make a fair, accurate, and impartial decision regarding allegations of abuse, neglect, or exploitation of a child based on a preponderance of the evidence; and

(2) Reduce the risk of abuse, neglect, and exploitation to children.

§707.713. What standards for conducting investigations of abuse, neglect, and exploitation apply to the Child Care Investigations program?

To encourage professionalism and consistency in the investigation of reports of child abuse, neglect, and exploitation, as specified in the Texas Family Code (TFC) §261.310, the Texas Department of Family and Protective Services (DFPS) adopts the following standards for individuals who investigate reports of child abuse, neglect, and exploitation in a child care operation:

(1) Each individual responsible for investigating reports of child abuse, neglect, or exploitation in a child care operation, or for conducting interviews during such investigations, must receive at least 12 hours of professional training every year.

(2) The professional training curriculum for individuals who conduct investigations or investigation interviews must include information about:

   (A) Abuse, neglect, and exploitation as defined in Texas Family Code (TFC) §261.001, including the distinction between:

      (i) physical injuries resulting from abuse; and

      (ii) ordinary childhood injuries;

   (B) Abuse involving mental or emotional injury as defined in TFC §261.001 and division 5 of this subchapter (related to Abuse, Neglect, and Exploitation);

   (C) The types of abuse, neglect, and exploitation reported to DFPS;

   (D) Forensic interviewing, including the collection of physical evidence and advanced training in investigative protocols and techniques; and

   (E) Applicable federal child welfare laws.

(3) All investigatory interviews that are recorded should be recorded:

   (A) Accurately, without interruption, and without alteration;

   (B) Should be made on equipment that is capable of making an accurate recording; and

   (C) Should be made by a person that is competent to make the recording.

(4) Individuals who investigate reports of child abuse should:

   (A) Utilize Children's Advocacy Centers, as appropriate;

   (B) Follow protocols to minimize the number of interviews with a child; and

   (C) Coordinate with experts to be thorough and exercise professional judgment in determining the nature, extent, and number of interviews, observations, and examinations of suspected child abuse victims.

(5) All documents generated during investigations must be maintained according to the Child Care Investigations published records retention schedule, including:

   (A) Original tape recordings of telephone intakes;

   (B) Any recordings of interviews; and

   (C) Worker case notes regarding the investigation.

§707.715. What are the timeframes within which the Child Care Investigations program must respond to a report of child abuse, neglect, or exploitation assigned for investigation?

(a) We assign priorities for reports of abuse, neglect, and exploitation based on the assessment of the immediacy of the risk and the severity of the possible harm to the child. Prior to initiating an investigation, we will review the intake report to determine if the initial priority and action recommended is appropriate or must be updated.

(1) Priority I reports concern:

   (A) death or immediate risk of death; serious injury; or life-threatening abuse, neglect, or exploitation; or

   (B) imminent risk of death; serious injury; or life-threatening abuse, neglect, or exploitation.

(2) Priority II reports are all other reports of abuse, neglect, or exploitation that are not assigned a Priority I.

(b) Subject to the availability of funds, we must:

   (1) Immediately respond to a report of abuse, neglect, or exploitation that is assigned a Priority I and involves:

      (A) the death of a child; or

      (B) circumstances in which serious physical or emotional harm or death of a child will result unless we immediately intervene.

   (2) Respond within 24 hours to a report of abuse, neglect, or exploitation that is assigned a Priority I and involves circumstances in which the threat of serious physical or emotional harm or death of a
§707.717. What actions may we take during the course of an abuse, neglect, or exploitation investigation?

During the course of an abuse, neglect, or exploitation investigation in a child care operation, we may take any of the following actions:

(1) Evaluate whether the child care operation is regulated by Child Care Licensing (CCL) or subject to regulation by CCL;

(2) Visit the child care operation and conduct a walkthrough;

(3) To protect the immediate safety of children, during the walkthrough ensure that any high risk minimum standard deficiencies are corrected at the time of the visit;

(4) Gather relevant information as part of the investigation;

(5) Provide notification and evidence to CCL of any deficiencies observed during the visit that are:

(A) high risk or in plain view;

(B) physical; or

(C) records/administrative;

(6) Assess the risk to children in the operation and as appropriate:

(A) request the operation to implement a safety plan to mitigate risk and ensure child safety during the investigation; or

(B) notify CCL if the operation will not implement the safety plan;

(7) To protect and ensure the safety of children, investigate any other allegations of deficient minimum standards received in the intake report in addition to the allegations of abuse, neglect, or exploitation.

§707.719. Must the child care operation allow us to visit the operation as part of the investigation?

(a) Yes, pursuant to Texas Human Resources Code §42.04412, the child care operation must not interfere with an investigation that we are conducting.

(b) If anyone at the child care operation refuses, prevents, or delays us from visiting and investigating all areas of the operation during the hours of operation, we may seek a court order granting us access to the operation and records maintained by the operation. In addition, Child Care Licensing may issue the child care operation a deficiency or take an enforcement action against the operation if the operation refuses, prevents, or delays our ability to conduct an investigation.

§707.721. What part of the child care operation can we investigate?

(a) We may investigate and walkthrough any part of the child care operation that could affect the health, safety, or well-being of children. This includes access to all children in care, employees, records, equipment the operation uses when providing care, and any area of the building, home, or grounds where the operation is located.

(b) We must have access to all records of the child care operation, including child records, personnel records, and any recordings or videotapes of any kind.

(c) We may also take copies of any records from the operation, including copies of any video and audio recordings.

§707.723. Are visits to a child care operation announced or unannounced?

Visits to a child care operation to investigate allegations of abuse, neglect, and exploitation are usually unannounced.

§707.725. How often may we visit a child care operation during an abuse, neglect, or exploitation investigation?

We will visit the child care operation as often as necessary to complete the investigation.

§707.727. Will we investigate anonymous reports?

Yes. We will investigate an anonymous report alleging abuse, neglect, or exploitation.

§707.729. Will an abuse, neglect, and exploitation finding be posted on the Texas Health and Human Services’ Search Texas Child Care website?

A finding of an abuse, neglect, and exploitation investigations that we conducted is confidential and will not be posted on the Texas Health and Human Services’ Search Texas Child Care website. However, we will provide our investigation findings, including any findings for anonymous reports, to Child Care Licensing (CCL) pursuant to Texas Human Resources Code (HRC) §40.042(f). If CCL cites an operation with any deficiency related to the abuse, neglect, or exploitation investigation, CCL will post the deficiency on the website. A CCL deficiency may be related to an abuse, neglect, or exploitation finding or to another minimum standards deficiency that we identified during the abuse, neglect, or exploitation investigation.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency’s legal authority to adopt.

Filed with the Office of the Secretary of State on February 21, 2020.

TRD-202000748
Audrey Carmical
General Counsel
Department of Family and Protective Services
Earliest possible date of adoption: April 5, 2020
For further information, please call: (512) 438-3805

DIVISION 3. NOTIFICATION

40 TAC §§707.741, 707.743, 707.745, 707.747

The modification is proposed under Human Resources Code (HRC) §40.027, which provides that the Department of Family and Protective Services commissioner shall oversee the development of rules relating to the matters within the department’s jurisdiction and notwithstanding any other law, shall adopt rules for the operation and provision of services by the department.

§707.741. When will we notify the child care operation of the abuse, neglect, or exploitation investigation?

(a) We will notify the person in charge of the child care operation of the nature of the abuse, neglect, or exploitation allegation(s) and the investigation procedures at the time of the first on-site visit to the operation unless:

(1) The allegation(s) is made against the person in charge, administrator, or director; or

(2) We have reason to believe that disclosing the nature of the allegation(s) might compromise the investigation.
§707.743. Do we notify parents that an investigator interviewed your child during an abuse, neglect, or exploitation investigation?

(a) Yes, we will make a reasonable effort to notify the parents within 24 hours after we interview and/or visually inspect their child during the course of an abuse, neglect, or exploitation investigation.

(b) This notice can be delayed at the request of law enforcement if notification during the required time frame will interfere with an ongoing criminal investigation. The notice can also be delayed if it will interfere with a companion investigation being conducted by the Department of Family and Protective Services or another agency.

§707.745. Whom will we inform of the abuse, neglect, or exploitation investigation results?

(a) Once the abuse, neglect, or exploitation investigation is complete, we will provide the following written notifications:

1. Notification of the investigation findings to any person alleged to be a perpetrator and information regarding a designated perpetrator's right to an administrative review to dispute any substantiated findings of abuse, neglect, or exploitation;

2. Notification of the investigation findings, any evidence gathered regarding possible minimum standard deficiencies, and any safety plan implemented to the Child Care Licensing inspector assigned to monitor the child care operation pursuant to Texas Human Resources Code (HRC) §40.042(f);

3. Notification of the investigation findings to the parent of the alleged victim. If the alleged victim is a child in the conservatorship of the Texas Department of Family and Protective Services, we will notify the alleged victim's Child Protective Services' caseworker; and

4. Notification to the reporter of the completion of the investigation within five calendar days after the investigation is closed.

(b) The Child Care Licensing inspector assigned to monitor the child care operation will notify the operation of the results of our investigation after the inspector makes determinations about any minimum standard violations.

§707.747. Will we cite deficiencies related to the abuse, neglect, or exploitation investigation in a child care operation?

No. The Child Care Licensing inspector assigned to monitor the child care operation will make decisions about possible minimum standard deficiencies and will notify the operation of any minimum standard deficiencies as well as the results of the investigation as provided in §707.745 (relating to Whom will we inform of the abuse, neglect, or exploitation investigation results?).

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 21, 2020.
TRD-202000749
Audrey Carnical
General Counsel
Department of Family and Protective Services
Earliest possible date of adoption: April 5, 2020
For further information, please call: (512) 438-3805

DIVISION 4. CONFIDENTIALITY

40 TAC §§707.761, 707.763, 707.765, 707.767, 707.769

The modification is proposed under Human Resources Code (HRC) §40.027, which provides that the Department of Family and Protective Services commissioner shall oversee the development of rules relating to the matters within the department's jurisdiction and notwithstanding any other law, shall adopt rules for the operation and provision of services by the department.

No other statutes, articles, or codes are affected by the proposed rules.

§707.761. Will you tell the operation or alleged perpetrator who made the report that resulted in the investigation of the operation?

No. The name of the person who made the report is confidential and will only be released as further described in the rules in this division and any other relevant provisions in federal and state law.

§707.763. Are abuse, neglect, and exploitation investigations in child care operations confidential?

(a) All open abuse, neglect, and exploitation investigations in child care operations are confidential.

(b) Completed investigation records are confidential pursuant to the federal Child Abuse Prevention and Treatment Act and Texas Human Resources Code (HRC) §40.005 and §42.004 and not available to the general public, except as provided under applicable federal or state law and as further described in the rules in this division. However, Child Care Licensing (CCL) maintains a monitoring file for each operation and will have access to the investigation records pursuant to HRC §40.042(f). The portions of the abuse, neglect, or exploitation investigation records that are maintained by CCL in the operation's monitoring file are not confidential and may be released to the public.

(c) Records related to a child fatality that is the subject of an investigation may be released to the general public as provided under Subchapter D, Release of Records Related to a Child Fatality, in Chapter 702 of this title (relating to General Administration).

§707.765. Who may obtain confidential abuse, neglect, and exploitation investigation information from the Child Care Investigation's file made confidential under Texas Human Resources Code (HRC) §§40.005 and 42.004?

(a) The following may obtain confidential abuse, neglect, and exploitation investigation information from us subject to the limitations described in §707.767 (relating to Are there any portions of the abuse, neglect, or exploitation investigation records that may not be released to anyone?) and §707.769 (relating to Who can review or have a copy of a photograph or an audio or visual recording, depiction, or documentation of a child that is in the abuse, neglect, or exploitation investigation records maintained by us?) in this division:

1. Texas Department of Family and Protective Services (DFPS) staff, including volunteers, as necessary to perform their assigned duties;
(2) Child Care Licensing (CCL) pursuant to HRC §40.042, in order to carry out its regulatory functions under HRC Chapter 42;

(3) The parent of the child who is the subject of the investigation;

(4) An attorney ad litem, guardian ad litem, or court appointed special advocate of an alleged victim of child abuse, neglect, or exploitation;

(5) The alleged perpetrator, or the parent of an alleged perpetrator that is a minor;

(6) Law enforcement;

(7) A member of the state legislature when necessary to carry out that member's official duties;

(8) A child care operation cited for a deficiency by CCL as a result of the investigation;

(9) A single-source continuum contractor (SSCC) for community-based care when:

(A) The SSCC subcontracts with the child care operation where the investigation occurred;

(B) The operation has signed a release of information; and

(C) CCL cited the operation for a deficiency as a result of the investigation;

(10) An administrative law judge who conducts a due process hearing related to a finding of abuse, neglect, or exploitation or related to an enforcement action taken by CCL or another state agency as a result of the finding. See division 7 of this subchapter (relating to Due Process Hearings);

(11) A judge of a court of competent jurisdiction in a criminal or civil case arising out of an investigation of child abuse, neglect, or exploitation, if the judge:

(A) provides notice to DFPS and any other interested parties;

(B) after reviewing the information, including audio and/or videotapes, determines that the disclosure is essential to the administration of justice and will not endanger the life or safety of any individual; and

(C) includes in the disclosure order any safeguards that the court finds appropriate to protect the interest of the child involved in the investigation;

(12) According to Texas Family Code (TFC) §162.0062, a prospective adoptive parent of a child who is the subject of the investigation or who is the alleged or designated perpetrator in the investigation;

(13) A child care licensing agency or child welfare agency from another state that requests information on the alleged perpetrator as part of a background check or to assist in its own child abuse, neglect, or exploitation investigation; and

(14) Any other person authorized by state or federal law to have a copy.

(b) Notwithstanding any other provision of this section, the parent of a child who is not the subject of the investigation or the alleged or designated perpetrator in the investigation, but was a collateral witness during the investigation is entitled to the portion of the investigation record related to their child.

(c) A social study evaluator may obtain a complete, non-redacted copy of any investigative report regarding abuse, neglect, or exploitation that relates to any person residing in the residence subject to the child custody evaluation, as provided by TFC §107.111.

§707.767. Are there any portions of the abuse, neglect, and exploitation investigation records that may not be released to anyone?

(a) Except as described in subsection (b) of this section, we may not release the following portions of the abuse, neglect, and exploitation investigation records to anyone:

(1) Any information that would interfere with an ongoing law enforcement investigation or prosecution;

(2) Any information identifying the person who made a report that resulted in an investigation;

(3) The location of a family violence shelter;

(4) Information pertaining to an individual who was provided family violence services;

(5) The location of a victims of trafficking shelter center, which would include:

(A) a general residential operation that provides trafficking victim services under 26 Texas Administrative Code (TAC) Chapter 748, Subchapter V (relating to Additional Requirements For Operations That Provide Trafficking Services); and

(B) a child-placing agency that provides trafficking victim services under 26 TAC Chapter 749, Subchapter V (relating to Additional Requirements For Child-Placing Agencies That Provide Trafficking Victims Services);

(6) Information pertaining to an individual who was provided services at a victims of trafficking shelter center, including a general residential operation or a child-placing agency that provides trafficking victim services;

(7) The identity of any child or information identifying the child in an abuse, neglect, or exploitation investigation, unless the requester is:

(A) The child's parent or prospective adoptive parent; or

(B) The single-source continuum contractor (SSCC) for community-based care when:

(i) the SSCC subcontracts with the child care operation where the investigation occurred;

(ii) the operation has signed a release of information; and

(iii) CCL cited the operation for a deficiency as a result of the investigation;

(8) Foster home screenings, adoptive home screenings, and post-placement adoptive reports, unless:

(A) The requester is the person being evaluated; or

(B) The Department of Family and Protective Services Commissioner approves the release of a screening or report based on a determination that, in the Commissioner's discretion, the release advances the goals of child protection; and

(9) Any other information made confidential under state or federal law.
(b) Notwithstanding any other provision in this section, DFPS may provide any of the above confidential information to the following, as specified:

(1) DFPS staff, including volunteers, as necessary to perform their assigned duties;
(2) CCL in order to carry out its regulatory functions under Human Resources Code, Chapter 42;
(3) Law enforcement for the purpose of investigating allegations of child abuse, neglect, or exploitation; failure to report child abuse, neglect, or exploitation; or false or malicious reporting of alleged child abuse, neglect, or exploitation;
(4) A member of the state legislature when necessary to carry out that member's official duties;
(5) Any other individuals ordered by an administrative law judge or judge of a court of competent jurisdiction; and
(6) A social study evaluator who has requested a complete, non-redacted copy of any investigative report regarding abuse, neglect, or exploitation that relates to any person residing in the residence subject to the child custody evaluations, as provided by Texas Family Code §107.111.

(c) Notwithstanding any other provision in this subchapter, Child Care Investigations staff, in consultation with the DFPS Office of the General Counsel, may withhold any information in its records if the release of that information would endanger the life or safety of any individual.

§707.769. Who can review or have a copy of a photograph or an audio or visual recording, depiction, or documentation of a child that is in the abuse, neglect, or exploitation investigation records maintained by us?

(a) Pursuant to the federal Child Abuse Prevention and Treatment Act and Texas Human Resources Code (HRC) §42.004, a photograph, videotape, audiotape, or other audio or visual recording, depiction, or documentation of a child that is made in the course of an abuse, neglect, or exploitation investigation is confidential and may only be released as required by state and federal law or as specified in subsections (b) and (c) of this section.

(b) We may provide a copy of a photograph or an audio or visual recording, depiction, or documentation of a child in our records to any of the following:

(1) Texas Department of Family and Protective Services staff, including volunteers, as necessary to perform their assigned duties;
(2) Child Care Licensing (CCL) in order to carry out its regulatory functions under HRC, Chapter 42;
(3) Law enforcement for the purpose of investigating allegations of child abuse, neglect, or exploitation; failure to report child abuse, neglect, or exploitation; or false or malicious reporting of alleged child abuse, neglect, or exploitation;
(4) An administrative law judge or a judge of a court of competent jurisdiction in a criminal or civil case to which the inspection or investigation is relevant;
(5) The parent of the child; and
(6) Any other person authorized by state or federal law to have a copy;

(c) The following persons may review a photograph or an audio or visual recording, depiction, or documentation of a child in our records, but may not have a copy:

(1) An attorney ad litem, guardian ad litem, or court-appointed special advocate of an alleged victim of child abuse, neglect, or exploitation;
(2) The operation cited for a deficiency by CCL as a result of the investigation during which the photograph was taken or the audio or visual recording, depiction, or documentation was made;
(3) The single-source continuum contractor (SSCC) for community-based care when:

(A) The SSCC subcontracts with the child care operation where the investigation occurred;
(B) The operation has signed a release of information; and
(C) CCL cited the operation for a deficiency as a result of the investigation during which the photograph was taken or the audio or visual recording, depiction, or documentation was made;

(4) The alleged or designated perpetrator of an abuse, neglect or exploitation investigation during which the photograph was taken or the audio or visual recording, depiction, or documentation was made to support or verify the abuse, neglect, or exploitation finding;

(5) A prospective adoptive parent of the child, as provided in Texas Family Code §162.0062.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 21, 2020.
TRD-202000750
Audrey Carnical
General Counsel
Department of Family and Protective Services
Earliest possible date of adoption: April 5, 2020
For further information, please call: (512) 438-3805

DIVISION 5. ABUSE, NEGLECT, AND EXPLOITATION


The modification is proposed under Human Resources Code (HRC) §40.027, which provides that the Department of Family and Protective Services commissioner shall oversee the development of rules relating to the matters within the department’s jurisdiction and notwithstanding any other law, shall adopt rules for the operation and provision of services by the department.

No other statutes, articles, or codes are affected by the proposed rules.

§707.781. What is the purpose of this division?

The purpose of this division is to further supplement and clarify the definitions in Texas Family Code §261.001 related to an investigation
of abuse, neglect, and exploitation by a person responsible for a child's care, custody, or welfare in a child care operation.

§707.783. Who is considered a person responsible for a child's care, custody, or welfare for purposes of a child abuse, neglect, or exploitation investigation in a child care operation?

(a) Texas Family Code §261.001(5) includes the following as a "person responsible for a child's care, custody, or welfare" in a child care operation:

(1) Foster parent of the child;

(2) Personnel or a volunteer at a public or private child-care facility that provides services for the child or at a public or private residential institution or facility where the child resides; and

(3) An employee, volunteer, or other person working under the supervision of a licensed or unlicensed child-care facility, including a family home, residential child-care facility, employer-based day-care facility, or shelter day-care facility, as those terms are defined in Chapter 42, Texas Human Resources Code.

(b) For purposes of subsection (a)(3) of this section, "an employee, volunteer, or other person working under the supervision of a licensed or unlicensed child-care facility" means any person working under the auspices of a child care operation and includes:

(1) Any employee or volunteer of the operation;

(2) Any person under contract with the operation;

(3) A director, owner, operator, or administrator of an operation;

(4) Anyone who has responsibility for the children in care;

(5) Anyone who has unsupervised access to the children in care;

(6) Anyone who regularly or routinely lives or is present at the operation; and

(7) Any other person permitted by act or omission to have access to children in care.

§707.785. What do certain words and terms mean when used in this division?

The following words and terms used in this division have the following meanings unless the context clearly indicates otherwise:

(1) "Omission" means a failure to act.

(2) "Reasonable effort to prevent" a type of abuse, including trafficking, means an action that a person responsible for a child's care, custody, or welfare would have taken to protect a child from the abuse that the person knew or reasonably should have known occurred or was occurring. It is not required for that person to have directly perpetrated the abuse.

(3) "Substantial risk" means a real and significant possibility or likelihood.

§707.787. What is emotional abuse?

(a) Emotional abuse is a subset of the statutory definitions of abuse that appear in Texas Family Code §261.001(1) and includes the following acts or omissions by a person:

(1) Mental or emotional injury to a child that results in an observable and material impairment in the child's growth, development, or psychological functioning;

(2) Causing or permitting the child to be in a situation in which the child sustains a mental or emotional injury that results in an observable and material impairment in the child's growth, development, or psychological functioning; or

(3) The current use by a person of a controlled substance as defined by Chapter 481, Health and Safety Code, in a manner or to the extent that the use results in mental or emotional injury to a child.

(b) In this section, the following terms have the following meanings:

(1) "Mental or emotional injury" means:

(A) That a child of any age experiences any significant change in the child's physical health, intellectual development, or social behavior, including changes in sleeping and eating patterns, changes in school, or depression. The child does not have to experience physical injury or be diagnosed by a medical or mental health professional in order for us to determine that the child suffers from a mental or emotional injury. However, when assessing the child, we must consult with professional collaterals outside of the Texas Department of Family and Protective Services that have witnessed and validated that the child is exhibiting behaviors that show an observable and material impairment as specified in subsection (b)(2) of this section. If a medical or mental health professional examines the child, we will consult with the medical or mental health professional prior to making a finding.

(B) For purposes of subsection (a)(3) of this section, "mental or emotional injury" resulting from a person's current use of a controlled substance includes a child of any age experiencing interference with normal psychological development, functioning, or emotional or mental stability, as evidenced by an observable and substantial change in behavior, emotional response, or cognition, related to the person's current use of a controlled substance.

(2) "Observable and material impairment" means discernible and substantial damage or deterioration to a child's emotional, social, and cognitive development. It may include but is not limited to depression; anxiety; panic attacks; suicide attempts; compulsive and obsessive behaviors; acting out or exhibiting chronic or acute aggressive behavior directed toward self or others; withdrawal from normal routine and relationships; memory lapse; decreased concentration; difficulty or inability to make decisions; or a substantial and observable change in behavior, emotional response, or cognition.

§707.789. What is physical abuse?

(a) Physical abuse is a subset of the statutory definitions of abuse that appear in Texas Family Code §261.001(1) and includes the following acts or omissions by a person:

(1) Physical injury that results in substantial harm to the child, or the genuine threat of substantial harm from physical injury to the child, including an injury that is at variance with the history or explanation given and excluding an accident;

(2) Failure to make a reasonable effort to prevent an action by another person that results in physical injury that results in substantial harm to the child;

(3) The current use by a person of a controlled substance as defined by Chapter 481, Health and Safety Code, in a manner or to the extent that the use results in physical injury to a child; or

(4) Causing, expressly permitting, or encouraging a child to use a controlled substance as defined by Chapter 481, Health and Safety Code.

(b) In this section, the following terms have the following meanings:

(1) "Accident" means an unforeseen, unexpected, or unplanned act or event that occurs unintentionally and causes or threatens
physical injury despite exercising the care and diligence that a reasonable and prudent person would exercise under similar circumstances to avoid the risk of injury.

(2) "Genuine threat of substantial harm from physical injury" means exposing the child to any risk of suffering a physical injury. This does not require actual physical contact or injury. It may include but is not limited to the following acts: striking, shoving, shaking, or hitting a child, whether intended as discipline or not.

(3) "Physical injury that results in substantial harm to the child" means any bodily harm, including but not limited to scratches; scrapes; cuts, welts, red marks; skin bruising; lacerations; pinch marks; sprains; dislocated, fractured, or broken bones; concussions; burns; and damage to internal organs. When determining whether the harm is substantial, we may consider factors including but not limited to the location of the harm; the child's age, physical condition, psychological functioning, and level of maturity; any special needs the child may have, and other relevant factors.

§707.791. What is sexual abuse?

(a) Sexual abuse is a subset of the statutory definitions of abuse that appear in Texas Family Code §261.001(1) and includes the following acts or omissions by a person:

(1) Sexual conduct harmful to a child's mental, emotional, or physical welfare, including:

(A) Conduct that constitutes the offense of continuous sexual abuse of a child or children under §21.02, Penal Code;

(B) Indecency with a child under §21.11, Penal Code;

(C) Sexual assault under §22.011, Penal Code;

(D) Aggravated sexual assault under §22.021, Penal Code;

(2) Failure to make a reasonable effort to prevent sexual conduct harmful to a child;

(3) Compelling or encouraging the child to engage in sexual conduct as defined by §43.01, Penal Code, including compelling or encouraging the child in a manner that constitutes an offense of:

(A) Trafficking of persons under §20A.02(a)(7) or (8), Penal Code;

(B) Prostitution under §43.02(b), Penal Code;

(C) Prostitution under §43.05(a)(2), Penal Code;

(D) Causing, permitting, encouraging, engaging in, allowing the photographing, filming, or depicting of the child if the person knew or should have known that the resulting photograph, film, or depiction of the child is obscene as defined by §43.21, Penal Code, or pornographic; or

(E) Causing, permitting, encouraging, engaging in, allowing a sexual performance by a child as defined by §43.25, Penal Code.

(b) In this section, the following terms have the following meanings:

(1) "Causing, permitting, encouraging, engaging in, allowing" the photographing, filming, or depicting of, or sexual performance by, a child as described in subsections (a)(4) and (5) of this section is not limited to actions the child was forced or coerced to participate in. The definition of sexual abuse is met even if the child voluntarily participates in the action.

(2) "Compelling or encouraging the child to engage in sexual conduct" as described in subsection (a)(3) of this section does not require that the child actually engage in sexual conduct. The definition of sexual abuse is met as long as there is a substantial risk of a child engaging in the sexual conduct.

(3) "Pornographic" or "pornography" means material that visually depicts a child younger than 18 years of age at the time the image of the child was made who is engaging in sexual conduct.

(4) "Sexual conduct harmful to a child's mental, emotional or physical welfare" includes but is not limited to rape; incest; sodomy; inappropriate touching of the child's anus, breast, or genitals, including touching under or on top of the child's clothing; deliberately exposing one's anus, breast, or any part of the genitals to a child; touching the child in a sexual manner or directing sexual behavior towards the child; showing pornography to a child; encouraging a child to watch or hear sexual acts; compelling, encouraging, or permitting a child to engage in prostitution; watching a child undress, shower, or use the bathroom with the intent to arouse or gratify one's sexual desire; voyeurism; sexually oriented acts, which may or may not include sexual contact or touching with intent to arouse or gratify the sexual desire of any person; and any sexually oriented act or practice that would cause a reasonable child under the same circumstances to feel uncomfortable or intimidated or that results in harm or substantial risk of harm to a child's growth, development, or psychological functioning.

§707.793. What is labor trafficking?

(a) Labor trafficking is a subset of the statutory definitions of abuse that appear in Texas Family Code §261.001(1) and includes the following acts or omissions by a person:

(1) Knowingly causing, permitting, encouraging, engaging in, or allowing a child to be trafficked in a manner punishable as an offense under §20A.02(a)(5) or (6), Penal Code;

(2) The failure to make a reasonable effort to prevent a child from being trafficked in a manner punishable as an offense under §20A.02(a)(5) or (6), Penal Code;

(b) In this section, "trafficked" means enticing, recruiting, harboring, transporting, enslaving, or providing to others or obtaining for oneself a child for labor or services through force, fraud, coercion, or exploitation. It involves giving or receiving monetary or nonmonetary remuneration, including the child's services, and a pervasive loss of freedom for the child.

(c) Labor trafficking does not require that the child actually engage in forced labor or services. The definition of labor trafficking is met as long as there is a substantial risk of the child engaging in forced labor or services.

(d) When determining whether a child is a victim of labor trafficking, we evaluate the totality of circumstances, including evidence that the child is being controlled by threats of deportation or physical or other types of harm to the child or the child's family; evidence of withholding or destroying of the child's legal documents; causing the child or child's family to become indebted to the trafficker; restricting the child's movement, communication, or ability to live a normal life; the detrimental nature of the work to the health, safety, or well-being of the child; or using physical, verbal or sexual intimidation or other types of manipulation to cause the child to feel helpless or in fear of the trafficker.

§707.795. What is sex trafficking?

(a) Sex trafficking is a subset of the statutory definitions of abuse that appear in Texas Family Code §261.001(1) and includes the following acts or omissions by a person:
(1) Knowingly causing, permitting, encouraging, engaging in, or allowing a child to be trafficked in a manner punishable as an offense under §20A.02(a)(7) or (8), Penal Code; or

(2) The failure to make a reasonable effort to prevent a child from being trafficked in a manner punishable as an offense under §20A.02(a)(7) or (8), Penal Code.

(b) In this section, "trafficked" means enticing, luring, recruiting, harboring, transporting, enslaving, selling, or holding captive a child for sexual conduct specified in Penal Code §20A.02(a)(7). It involves giving or receiving monetary or nonmonetary remuneration, including the child's sexual services, and a pervasive loss of freedom for the child.

(c) Sex trafficking does not require force, fraud, or coercion. The definition of sex trafficking is met even if it appears that the child is in agreement with the conduct or does not consider herself or himself to be a victim of sex trafficking.

(d) When determining whether a child is a victim of sex trafficking, we evaluate the totality of circumstances, including evidence that the child is being controlled by threats of deportation or physical or other types of harm to the child or the child's family; evidence of withholding or destroying of the child's legal documents; causing the child or child's family to become indebted to the trafficker; restricting the child's movement, communication, or ability to live a normal life; or using physical, verbal, or other types of intimidation or manipulation to cause the child to feel helpless or in fear of the trafficker.

§707.797. What is forced marriage?
Forced marriage is a subset of the statutory definitions of neglect that appear in Texas Family Code §261.001(1) and includes the following act or omission by a person: forcing or coercing a child to enter into a marriage.

§707.799. What is exploitation?
(a) Exploitation is a statutory definition that appear in Texas Family Code §261.001(3) and involves the illegal or improper use of a child or of the resources of a child for monetary or personal benefit, profit, or gain by an employee, volunteer, or other individual working under the auspices of a child care facility or program.

(b) In this section, "employee, volunteer, or other individual working under the auspices of a facility or program" has the same definition as specified in §707.783(b) in this division (relating to Who is considered a person responsible for a child's care, custody, or welfare for purposes of a child abuse, neglect, or exploitation investigation in a child care operation?).

§707.801. What is neglect?
(a) For purposes of an investigation in a child care operation, neglect is defined in Texas Family Code §261.001(4)(A)(iv) as a negligent act or omission by an employee, volunteer, or other individual working under the auspices of a facility or program, including failure to comply with an individual treatment plan, plan of care, or individualized services plan that causes or may cause substantial emotional harm or physical injury to, or the death of, a child served by the facility or program.

(b) In this section, the following terms have the following meanings:

1. "Negligent act or omission" means a breach of duty by an employee, volunteer, or other individual working under the auspices of a facility or program that causes or may cause substantial emotional harm or substantial physical injury to a child and includes the following:

2. (A) Failure to take an action that a reasonable member of that profession, reasonable caregiver, or reasonable person should take in the same situation;

3. (B) Taking an action that a reasonable member of that profession, reasonable caregiver, or reasonable person should not take in the same situation;

4. (C) Placing a child in or failing to remove him from a situation that a reasonable member of that profession, reasonable caregiver, or reasonable person should realize requires judgment or actions beyond the child's level of maturity, physical condition, or mental abilities;

5. (D) Leaving a child in a situation where a reasonable member of that profession, reasonable caregiver, or reasonable person would expect the child to be exposed to substantial emotional harm or substantial physical injury without arranging for necessary care for the child;

6. (E) Failure to seek, to obtain, or to follow through with medical care for a child;

7. (F) Failure to provide a child with food, clothing, and shelter necessary to sustain the life or health of the child;

8. (G) Placing a child in or failing to remove the child from a situation in which a reasonable member of that profession, reasonable caregiver, or reasonable person should know exposes the child to the risk of sexual conduct;

9. (H) Causing, expressly permitting, or encouraging a child to use alcohol;

10. (I) Using alcohol in a manner or to the extent that the use results in substantial emotional harm or physical injury to a child;

11. (J) A violation or deficiency of any law, rule, or minimum standard that causes substantial emotional harm or physical injury to a child;

12. (K) Repeated (two or more) violations of any law, rule, or minimum standard, after notice and an opportunity to correct the violation, that may cause substantial emotional harm or physical injury to a child;

13. (L) Failure to comply with an individual treatment plan, plan of service, or individualized service plan that causes substantial emotional harm or physical injury to a child;

14. (M) Repeated failures (two or more) to comply with an individual treatment plan, plan of service, or individualized service plan, after notice and an opportunity to correct the failure, that may cause substantial emotional harm or physical injury to a child.

15. (N) "Employee, volunteer, or other individual working under the auspices of a facility or program" has the same definition as specified in §707.783(b) in this division (relating to Who is considered a person responsible for a child's care, custody, or welfare for purposes of a child abuse, neglect, or exploitation investigation in a child care operation?).

16. (O) Substantial emotional harm means an observable impairment in a child's psychological growth, development, or functioning that is significant enough to require treatment by a medical or mental health professional. Evidence that the emotional harm is substantial includes the nature of the act or omission, the age of the child, and/or the persistence of the symptoms. Substantial emotional harm is presumed when the act or omission is of a sexual nature, the child acts out sexually, or the child attempts suicide. A mental health professional does not have to determine that there is substantial emotional harm.
§707.801. How does a designated perpetrator request an administrative review?

(a) To request an administrative review you must submit a written request by postal mail, fax, or email to the name and address indicated in our notification letter.

(b) The written request must:

(1) Describe the specific abuse, neglect, or exploitation finding(s) that you are disputing; and

(2) Include any documentation that supports your position, such as photographs, diagrams, or written and signed statements.

(c) The written request must be sent within 15 calendar days after you receive our notification of your right to an administrative review. Requests received in the mail must be postmarked within 15 calendar days.

§707.815. What is an administrative review?

An administrative review is an informal review we conduct at the request of a designated perpetrator to determine whether the Reason to Believe finding of abuse, neglect, or exploitation is supported by a preponderance of evidence. The review is not a formal hearing and therefore does not involve formal examination and cross-examination of witnesses.

§707.817. Who may request an administrative review?

A designated perpetrator may request an administrative review for a finding of abuse, neglect, or exploitation.

DIVISION 6. ADMINISTRATIVE REVIEWS


The modification is proposed under Human Resources Code (HRC) §40.027, which provides that the Department of Family and Protective Services commissioner shall oversee the development of rules relating to the matters within the department's jurisdiction and notwithstanding any other law, shall adopt rules for the operation and provision of services by the department.

No other statutes, articles, or codes are affected by the proposed rules.

§707.815. What is an administrative review?

An administrative review is an informal review we conduct at the request of a designated perpetrator to determine whether the Reason to Believe finding of abuse, neglect, or exploitation is supported by a preponderance of evidence. The review is not a formal hearing and therefore does not involve formal examination and cross-examination of witnesses.

§707.817. Who may request an administrative review?

A designated perpetrator may request an administrative review for a finding of abuse, neglect, or exploitation.
or designee will uphold, reverse, or alter the abuse, neglect, or exploitation finding. If we proceed with the administrative review without conducting the telephone conference or meeting based on one of the reasons outlined in §707.823(c) of this division (relating to How is the administrative review conducted?), the decision to uphold, reverse, or alter the finding will be based on your written request and any supporting documentation submitted with your request.

(b) If the finding is reversed or altered, we will update our records to reflect the change. If the finding is reversed, we will also remove your name from Texas Department of Family and Protective Services Central Registry.

§707.827. When will a decision regarding the administrative review be issued?

The Child Care Investigations' division administrator or designee will prepare and send a written decision to you within 30 calendar days of conducting the telephone conference or meeting or within 60 days of the request for an administrative review if we proceed with the administrative review without conducting the telephone conference or meeting based on one of the reasons outlined in §707.823(c) of this division (relating to How is the administrative review conducted?), unless good cause exists to extend the time frame according to Child Care Investigations policy.

§707.829. Can a designated perpetrator waive the right to an administrative review?

You will waive your right to an administrative review if:

(1) You do not request an administrative review according to §707.819 in this division (relating to How does a designated perpetrator request an administrative review?); or

(2) You submit a written statement to us stating that you would like to waive your right to the administrative review.

§707.831. What happens if a designated perpetrator waives the right to an administrative review?

The abuse, neglect, or exploitation finding will remain the same, and we will forward you a notice of your right to a due process hearing.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 21, 2020.

TRD-2020000752
Audrey Carmichael
General Counsel
Department of Family and Protective Services
Earliest possible date of adoption: April 5, 2020
For further information, please call: (512) 438-3805

DIVISION 7. DUE PROCESS HEARINGS


The modification is proposed under Human Resources Code (HRC) §40.027, which provides that the Department of Family and Protective Services commissioner shall oversee the development of rules relating to the matters within the department's jurisdiction and notwithstanding any other law, shall adopt rules for the operation and provision of services by the department.

No other statutes, articles, or codes are affected by the proposed rules.

§707.841. What is a due process hearing?

A due process hearing is a formal legal proceeding that provides a designated perpetrator the right to challenge a finding of abuse, neglect, or exploitation in an impartial setting before an administrative law judge of the State Office of Administrative Hearings. The judge decides if the facts that existed at the time we made the finding meet the preponderance of evidence standard and decides whether to uphold, reverse, or alter the finding.

§707.843. Who may request a due process hearing?

A designated perpetrator may request a due process hearing for a finding of abuse, neglect, or exploitation.

§707.845. How do I request a due process hearing?

(a) To request a due process hearing you must send a written request to the Docket Clerk for Child Care Licensing in the Texas Health and Human Services Legal Services Division, Enforcement Department. The notice informing you of your right to request a due process hearing will include the mailing address, email address, or fax number where you may send your request.

(b) The written request must:

(1) Describe the specific abuse, neglect, or exploitation finding you are disputing; and

(2) Include a copy of the notification letter informing you of your rights to a due process hearing.

(c) For a written request to be timely:

(1) If you send your request by regular mail, it must be postmarked within 30 days after you receive our notification of your right to request a due process hearing; or

(2) You must fax or email your request within 30 days after you receive our notification of your right to request a due process hearing.

§707.847. What happens after a designated perpetrator makes a request for a due process hearing?

(a) After you request a due process hearing, the Texas Health and Human Services (HHSC) Legal Services Division will ask the State Office of Administrative Hearings to appoint an administrative law judge to conduct a hearing to make a final decision regarding the finding of abuse, neglect, or exploitation.

(b) After the State Office of Administrative Hearings assigns a docket number to your case:

(1) The HHSC Legal Services Division will send you a notice of the hearing by regular and certified mail to your last known address as shown by our records; or

(2) If the Docket Clerk has received written notice of representation from an attorney who will be representing you at the hearing, the HHSC Legal Services Division will send the notice of the hearing to the attorney in a manner allowed under the rules referenced in §707.849 in this division (relating to How is a due process hearing conducted?).

(c) You are responsible for providing the Docket Clerk with written notification of any change in your address that occurs after you have requested a due process hearing.

§707.849. How is a due process hearing conducted?

A due process hearing is conducted according to the following procedural rules which are incorporated into this rule by reference:

PROPOSED RULES  March 6, 2020  45 TexReg 1653
(1) rules of the State Office Administrative Hearings (SOAH) found at 1 Texas Administrative Code Chapter 155 (relating to Rules of Procedure);

(2) Texas Government Code, Chapter 2001, Administrative Procedures Act (APA) rules, to the extent that they do not conflict with the SOAH rules; and

(3) the Texas Rules of Civil Procedure, to the extent that they do not conflict with the SOAH or APA rules.

§707.851. Can due process hearings be combined?
Yes. An administrative law judge (ALJ) may combine hearings that involve issues related to the same decision or action, including hearings from different agencies that are related. For example, if Child Care Licensing (CCL) takes an adverse action against your operation based on a finding of child abuse, neglect, or exploitation that we made, and you request a due process hearing on the abuse, neglect, or exploitation finding as well as the adverse action, then the ALJ may combine the hearing to listen to those related issues at the same time. Another example is when three different individuals are designated as perpetrators of abuse, neglect, or exploitation based on the same incident, and all three individuals request a due process hearing. In this situation, the ALJ may combine all three hearings to listen to the related abuse, neglect, or exploitation issues at the same time. However, the ALJ's judgment must reflect a determination on all of the individual due process requests before the ALJ.

§707.853. What actions may the administrative law judge take on the abuse, neglect, or exploitation finding at the due process hearing?
The administrative law judge may uphold, reverse, or modify an abuse, neglect, or exploitation finding that is the subject of the due process hearing.

§707.855. What if I do not appear at my due process hearing?
If you do not appear, the administrative law judge may enter a default decision that upholds the abuse, neglect, or exploitation finding.

§707.857. What actions must we take in response to an administrative law judge’s action regarding an abuse, neglect, or exploitation finding?
(a) If the administrative law judge (ALJ) alters or reverses the finding, then we must update our records to reflect the change. If the ALJ reverses the finding, we must also remove your name from the Texas Department of Family and Protective Services (DFPS) Central Registry.

(b) If the ALJ upholds the finding, then we must change your designation from a "designated perpetrator" to a "sustained perpetrator" in the DFPS Central Registry.

§707.859. Can I waive my right to a due process hearing?
(a) You may waive your right to a due process hearing by:

(1) Not requesting a due process hearing according to §707.845 in this division (relating to How do I request a due process hearing?);

(2) Submitting a written statement to the appropriate Child Care Investigations investigator that you are waiving your right to the due process hearing before the 30-day timeframe has expired; or

(3) If you have already requested a hearing, submitting a written statement to the Texas Health and Human Services Legal Services Division that you are waiving your right to the due process hearing.

(b) If you waive your right to a due process hearing:

(1) Because you did not make a timely request according to §707.845 of this division, each abuse, neglect, or exploitation finding that was included in the letter informing you of your right to request a due process hearing will be effective on the day after your time period for requesting a due process hearing expires; or

(2) By submitting a written statement waiving your right to a due process hearing, each finding will be effective on the date the waiver is received, as applicable.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency’s legal authority to adopt.

Filed with the Office of the Secretary of State on February 21, 2020.
TRD-202000753
Audrey Carnical
General Counsel
Department of Family and Protective Services
Earliest possible date of adoption: April 5, 2020
For further information, please call: (512) 438-3805

Texas Register

45 TexReg 1654 March 6, 2020 Texas Register