

ADOPTED RULES

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

TITLE 13. CULTURAL RESOURCES

PART 1. TEXAS STATE LIBRARY AND ARCHIVES COMMISSION

CHAPTER 1. LIBRARY DEVELOPMENT

SUBCHAPTER C. MINIMUM STANDARDS

FOR ACCREDITATION OF LIBRARIES IN THE STATE LIBRARY SYSTEM

13 TAC §§1.70 - 1.82

The Texas State Library and Archives Commission (commission) adopts new Texas Administrative Code, Title 13, Chapter 1, Subchapter C, §1.70, Purpose and Scope; §1.71, Definitions; §1.72, Legal Service Area; §1.73, Public Library Services; §1.74, Public Library: Legal Establishment; §1.75, Local Operating Expenditures; §1.76, Quantitative Standards for Accreditation of a Library; §1.77, Other Operational Requirements; §1.78, Annual Report; §1.79, Emergency Waiver of Accreditation Criteria; §1.80, Conditional Accreditation of a Library; §1.81, Loss of Accreditation; and §1.82, Appeal of Accreditation Determination. Sections 1.70, 1.74, 1.78, 1.79, 1.81, and 1.82 are adopted without changes to the proposed text as published in the November 15, 2024, issue of the *Texas Register* (49 TexReg 9149) and will not be republished. Sections 1.71 - 1.73, 1.75 - 1.77, and 1.80 are adopted with changes and will be republished.

EXPLANATION OF NEW SECTIONS. To become accredited or maintain accreditation, public libraries must submit an annual report to the commission demonstrating they have met each of the accreditation criteria in rule. Each annual report includes information from the preceding local fiscal year and is due during the calendar year following the conclusion of the local fiscal year. If all accreditation criteria are met, the public library will then be accredited for the next state fiscal year. The adopted new sections will apply to information from local fiscal year 2026, which will be reported during spring of 2027, for accreditation for state fiscal year 2028. The proposed new sections will become effective September 1, 2025.

New §1.70, Purpose and Scope, establishes the commission's responsibilities related to accreditation and describes the purpose and scope of the new subchapter. The new section clarifies that accreditation is designed to establish the minimum criteria a library must meet to take advantage of certain programs offered by the commission. The new section also clarifies that the annual report described in new §1.78 (relating to Annual Report) is the mechanism by which accreditation criteria are reviewed and accreditation is awarded.

New §1.71, Definitions, defines terms used throughout the subchapter. A change on adoption adds the requirement of at least

one public access computer to the definition of public library. This is not a new requirement.

New §1.72, Legal Service Area, notes that a public library's legal service area is based on the source(s) of local government funding for the library and the population assigned according to the rule. A change on adoption adds a hyphen to "population-served."

New §1.73, Public Library Services, lists the services a public library must provide to the general public without charge. Changes on adoption note that the rules do not prohibit a library from establishing policies, including the imposition of fees and terms, under which borrowing privileges may be extended to individuals living outside of the library's legal service area. In addition, the rule as adopted requires a library to make a good faith effort to allow use of computers and other technology without charge. The rule as adopted also notes that library entities contracted with school districts to provide library services to the general public must enter into an agreement that establishes the policies each library facility must adhere to, including all applicable state laws and regulations. Finally, the rule requires a public library to certify annually that no person shall be excluded from participation in or denied the benefits of the appropriate services of that library in accordance with federal law.

New §1.74, Public Library: Legal Establishment, is a revision of previous §1.73 (relating to Public Library: Legal Establishment). This section explains how a public library must be established, with minor wording changes from the previous rule.

New §1.75, Local Operating Expenditures, is a revision of previous §1.74 (relating to Local Operating Expenditures). The rule adds a new subsection requiring that at least half of the annual local operating expenditures required to meet the minimum level of per capita support for accreditation be from local government sources. The adopted rule increases total local expenditures to at least \$24,000 in local fiscal years 2026, 2027, and 2028; at least \$27,000 in local fiscal years 2029, 2030, and 2031, and at least \$30,000 in local fiscal years 2032, 2033, and 2034. Additional revisions to this section exempt a library from these accreditation criteria if it expends at least \$22.00 per capita and either shows evidence that it is open to the public under identical conditions without charge or that it expends at least \$200,000 of local funds. Changes on adoption rearrange the sections and add cross-references for clarity.

New §1.76, Quantitative Standards for Accreditation of a Library, is a revision of previous §1.81 (relating to Quantitative Standards for Accreditation of Library). The new rule clarifies that a public library must meet the quantitative standards for accreditation in addition to the other requirements of the subchapter. Revisions to the previous rule also restructure and simplify the section, grouping standards applicable to all libraries together rather than repeating standards multiple times throughout the

rule. The funding amounts in the rule are intended only to set a basic level of funding, with communities encouraged to fund their libraries to the capacity desired to achieve all local goals. Changes on adoption add an "a" to the rule title, correct a typographical error, change "%" to "percent," and simplify the language in §1.76(h)(4).

New §1.77, Other Operational Requirements, updates and modernizes language of previous §1.83 (relating to Other Requirements), as well as adds email address to the required contact information. The rule includes a new requirement that a library maintain policies addressing circulation, collection development, technology use, and information security and privacy, and make those policies available to the public. Changes on adoption simplify the first sentence and change "board" to "authority."

New §1.78, Annual Report, states that to be eligible for accreditation, a public library must submit an annual report to the commission by the established deadline or the library will automatically lose accreditation for the upcoming state fiscal year and be ineligible for certain commission services and programs.

New §1.79, Emergency Waiver of Accreditation Criteria, is the same language previously found at §1.87 (relating to Emergency Waiver of Accreditation Criteria). This section authorizes waiver of one or more accreditation criteria if a library shows good cause for failure to meet the criteria.

New §1.80, Conditional Accreditation of a Library, replaces previous §1.79 (relating to Provisional Accreditation of Library) and previous §1.80 (relating to Probational Accreditation of Library). This section establishes one simple process for the granting of temporary accreditation when a library fails to meet one criterion in the quantitative standards in §1.76. The maximum length of time a library may be conditionally accredited is three years. A change on adoption corrects punctuation.

New §1.81, Loss of Accreditation, outlines what might cause a library to lose accreditation, how the process will work, and what loss of accreditation means. If a library loses accreditation, it will not be accredited for the next state fiscal year and will not have access to certain commission services during that year. If the commission determines that a library does not meet the criteria for accreditation at any time during the accreditation year, the commission will notify the library in writing of the potential loss of accreditation. On notification of potential loss of accreditation, a library may be able to come into compliance, choose to be unaccredited, or appeal the determination. The new section also provides that if a library does not file its annual report by the established deadline, it will automatically lose accreditation for the upcoming state fiscal year. If a library is unaccredited for the year in question but wishes to be considered for accreditation in subsequent years, it must continue to submit an annual report. In all cases, a library must continue to submit an annual report to continue receiving certain minimum services.

New §1.82, Appeal of Accreditation Determination, establishes the process for how a library may appeal the loss of accreditation. The library may first appeal to the Library Systems Act Advisory Board (LSA Board) and must include a formal letter of appeal to the director of the Library Development and Networking Division. The LSA Board will consider the matter at a meeting and make a recommendation on the appeal to the director and librarian, who will make a final determination. If the library does not agree with the director and librarian's determination, the library may appeal to the Commission following the requirements of §2.55, Protest Procedure.

SUMMARY OF COMMENTS. The commission received 27 comments during the comment period, one of which is from an organization, the Texas Library Association (TLA). The remaining comments were submitted by individuals.

The following comments relate to the rules generally:

COMMENT: One individual suggested changing the language of governing board to board or city leadership, as many libraries operate at the direction of the city manager form of government.

RESPONSE: The commission notes that in most cases in the rules the term "governing authority" is used, which would include any form of governance of a library, including city manager form of government. The commission does note that in proposed §1.77 (relating to Other Operational Requirements) the term "governing board" was used. The commission updates that term to "governing authority" on adoption for consistency.

COMMENT: One individual expressed a general concern that small community libraries will not be able to meet the standards and requested reconsideration of the accreditation standards that will end up excluding small community libraries from the support they so desperately need.

RESPONSE: The commission notes that the proposed standards were designed so that the vast majority of libraries (at least 95%) are already in compliance with the standards and the remaining currently accredited libraries should be able to meet the standards without much difficulty. With an implementation time of two years, all libraries should have ample time to meet the standards.

The following comment relates to §1.70, Purpose and Scope:

COMMENT: One individual noted that §1.70(b) states that accreditation is not intended to evaluate the adequacy of a library's staff, budget, or resources, while §1.71(1) implies that accreditation reflects on library resources and operations, creating a contradiction. The individual suggested both sections be clarified.

RESPONSE: The commission notes that the criteria provide a baseline to assess minimum standards for quantitative measures for funding, circulation, and materials, for instance. The accreditation criteria do not reflect a qualitative assessment of the library's operations or overall adequacy in satisfying community needs. The commission believes that the definition of "accreditation" in §1.71(1) ("the process by which a library is accredited by the Texas State Library and Archives Commission as having met the standards in this subchapter") aligns with the statement in §1.70(b) ("[t]he accreditation process is designed to establish the minimum criteria a library must meet if the library wishes to take advantage of certain programs offered by the commission") and declines to make a change in response to this comment.

The following comment relates to §1.71, Definitions:

COMMENT: One individual expressed appreciation for the broadening of the definition of "professional librarian" in §1.71 to include a person with a master's degree or comparable certification in library or information studies from any accredited program, not just a program approved by the American Library Association.

RESPONSE: The commission appreciates the support for this change.

The following comments relate to §1.73, Public Library Services:

COMMENT: Several individuals submitted comments related to charges, specifically asking the commission to clarify whether charges would be allowed for the following: 3D paper filament, vinyl for Cricut projects, and other makerspace materials like special paper and wood.

RESPONSE: The commission notes that the rules do not prohibit a library from charging for materials that the library supplies patrons with local funds. In addition, the commission is modifying this section on adoption to list only those services that must be provided free of charge. Decisions regarding charges for any other library services shall be made locally.

COMMENT: One individual commented that the prohibition on charging for programming severely limits and hinders small, rural libraries that have little to no budget for programming. The individual noted that allowing libraries to recoup costs for supplies, for example, would enable these libraries to expand their reach in the community and offer more programming. This individual suggested the addition of wording authorizing libraries serving a demographic under a certain size (e.g., 10,000 or 25,000) to charge a fee for certain types of programming that requires supplies or specialty programming that requires paying an instructor (e.g., after-hours computer classes).

RESPONSE: As noted above, the commission is modifying this section on adoption to list only those services that must be provided free of charge. Decisions regarding charges for any other library services shall be made locally.

COMMENT: One individual noted in a webinar that TSLAC stated asking users to pay for program materials is prohibited under the rule, but that is not stated explicitly in the rule.

RESPONSE: As noted above, the commission is modifying this section on adoption to list only those services that must be provided free of charge. Decisions regarding charges for any other library services shall be made locally.

COMMENT: One individual requested clarification as to whether the rule would allow charges for the use of laptops, a library of "things," and other items that are normally reserved for residents due to expense and limited supply.

RESPONSE: As noted above, the commission is modifying this section on adoption to list only those services that must be provided free of charge. Decisions regarding charges for any other library services shall be made locally.

COMMENT: One individual suggested that the rule specifically allow libraries to charge for fundraising events.

RESPONSE: As noted above, the commission is modifying this section on adoption to list only those services that must be provided free of charge. Decisions regarding charges for any other library services shall be made locally. The rules do not affect a local jurisdiction's decisions regarding charges for fundraising events.

COMMENT: One individual requested clarification on whether the rules would allow libraries to charge for summer programs, noting they do not charge resident or non-resident children to participate in the weekly summer programs, but in order for children (resident or non-resident) to participate, they must have a library card.

RESPONSE: As noted above, the commission is modifying this section on adoption to list only those services that must be provided free of charge. Decisions regarding charges for any other library services shall be made locally. However, the commis-

sion does note that programs that are paid for in whole or part by state-awarded funds must be provided free of charge. Therefore, if the materials for a library's summer reading program were paid for with state-awarded funds, a library must provide those materials free of charge.

COMMENT: One individual provided comment about the state setting guidelines on access to resources that are provided by local funding, noting that access to the facility and use of resources within the library should be a decision for the city to address the demand on their resources and their specific costs and access criteria needs.

RESPONSE: The commission notes that new §1.73(6) clarifies that only the use of onsite resources that do not have to be reserved must be provided free of charge. In addition, as noted above, the commission is modifying this section on adoption to list only those services that must be provided free of charge. Decisions regarding charges for any other library services shall be made locally.

COMMENT: One individual requested that "borrowing privileges" be clarified so that it cannot be interpreted that all libraries must offer free borrowing privileges to everyone regardless of residency. The individual noted that the decision to charge for non-resident cards should be a local decision based on local expectations and demands.

RESPONSE: In response to other comments, the commission is modifying the language of §1.73 to specify only those services that must be provided free of charge. One such change is circulation of materials to those with borrowing privileges who reside in the library's legal service area. While the commission encourages libraries to make more services available to the public regardless of a person's residency, the rule as adopted will leave the decision on whether to charge nonresidents for borrowing privileges up to the library and its governing authority. The commission believes these changes address the commenter's concern regarding clarification of "borrowing privileges."

COMMENT: TLA noted that §1.73(c)(2) and (c)(3) require libraries to circulate and reserve materials without charge regardless of residency to those with borrowing privileges and §1.73(e) allows a public library to charge nonresidents for borrowing privileges, which may include reserving materials and access to library programming. TLA requested clarification of the language in (c)(2) and (c)(3) to reference (e) to avoid any confusion about the library's ability to charge nonresidents for borrowing privileges.

RESPONSE: As noted above, the commission is modifying this section on adoption to list only those services that must be provided free of charge. Decisions regarding charges for any other library services shall be made locally.

COMMENT: One individual suggested the rule specify what must be provided free of charge to cardholders and not specify what can be charged, as this would allow for more creativity and flexibility for cities to find revenue sources. Another individual similarly suggested the section include only a list of services that should remain free of charge while maintaining the autonomy of each library system to collect revenue in the way that is most beneficial for their current service model.

RESPONSE: The commission appreciates these comments and is changing the rule on adoption to list only those services that must be provided free of charge. Decisions regarding charges for any other library services shall be made locally.

COMMENT: Three individuals raised questions regarding charging non-residents for borrowing materials. One individual commented that §1.73(a), which mandates free services regardless of residency, conflicts with §1.73(e), which permits charging for borrowing privileges. Another individual commented that §1.73 is contradictory in stating that services must be provided without charge regardless of a person's residency but includes limitation to circulation and reserving of library materials to those with borrowing privileges. This individual suggested deletion of §1.73(c)(2), (3), (5), and (7).

RESPONSE: As noted above, the commission is modifying this section on adoption to list only those services that must be provided free of charge. Decisions regarding charges for other library services not listed shall be made locally.

COMMENT: One individual suggested the rule include language explicitly permitting differentiation among borrower types, such as age, residency, or other criteria.

RESPONSE: The commission declines to make a change in response to this comment. Decisions regarding differentiation among borrower types shall be made locally.

COMMENT: One individual suggested deletion of §1.73(c)(2), (3), and (5), deletion of the language "which may include reserving and access to library programming" from §1.73(e), and addition of a new §1.73(d)(10), "Use of materials in conjunction with makerspace equipment and technology."

RESPONSE: As noted above, the commission is modifying §1.73 on adoption to list only those services that must be provided free of charge. Use of computers is not included in this list. The commission is also clarifying on adoption that circulation and reserving of materials must be provided free of charge to those with borrowing privileges who reside in the library's legal service area. The commission is deleting proposed §1.73(e) on adoption, so decisions regarding services to nonresidents remains local. Finally, the rules do not require that materials used in conjunction with makerspace equipment and technology be provided free of charge. Because the rule does not list what services a library may charge for, the recommended addition to §1.73(d) is unnecessary.

COMMENT: One individual asked whether a library could limit use of popular meeting rooms to county residents.

RESPONSE: The accreditation rules were designed to work in alignment with a public library's policies and procedures. As such, a decision regarding limiting use of popular meeting rooms to county residents is a policy decision for the library not impacted by these rules.

COMMENT: One individual noted that most TexShare cards have restricted borrowing privileges for those outside the usual service area and asked if all accredited libraries have to give anyone who asks a full privilege card, what is the point of a TexShare card? Another individual commented that with Interlibrary Loan (ILL) and TexShare, the library does not loan certain items out. Two individuals requested clarification on the difference between a TexShare card, ILL, and a regular card for borrowing privileges.

RESPONSE: A TexShare card is a library card that allows a patron to borrow materials from other participating libraries across the state. Each library electing to participate in the TexShare card program sets its own eligibility and lending policies. The statewide interlibrary loan program (ILL) allows libraries to request items for their patrons from other libraries across the state.

The accreditation rules do not give any additional borrowing authority to or change the working parameters a library feels are best for ILL or TexShare. Both of these programs have their own rules and guidelines in place, and the accreditation rules do not conflict with those programs. The commission does not believe a change is necessary in response to this comment as the guidelines for the TexShare card program and ILL are clear.

COMMENT: TLA commented that materials in a library may also be circulated or reserved via ILL or TexShare cards and noted that libraries may limit what materials will be loaned via these two services. TLA requested clarification that the requirements in these two sections only apply to borrowing and reserving privileges of those holding a regular library card, not to ILL or TexShare cards.

RESPONSE: As noted in response to the comment above, the commission does not believe a change is necessary in response to this comment, as the accreditation rules do not give any additional borrowing authority to or change the working parameters a library feels are best for ILL or TexShare. Both of those programs have their own rules and guidelines in place, and the accreditation rules do not conflict with those programs.

COMMENT: One individual commented that the standards proposed in §1.73 about what a library may charge for versus what they must provide free of charge attempt to usurp the decision-making power of locally elected and appointed leaders, noting that these decisions should be made locally as the local community is best suited to determine the expenditures funded through local taxes.

RESPONSE: As noted above, the commission is modifying this section on adoption to list only those services that must be provided free of charge. Decisions regarding charges for any other library services shall be made locally.

COMMENT: One individual asked whether limiting programs to library members would be equated with charging admission, which is prohibited under the proposed standards. They note that limiting admission is one way to ensure the local community is able to access the resources supported by their tax dollars.

RESPONSE: The rule as adopted only requires that admission to the facility be free of charge. Libraries may make their own decisions regarding limiting access to library programs or charging for those programs in line with these rules and the library's policies.

COMMENT: One individual commented that §1.73(b) was unreasonable, noting that it would be very difficult for libraries to comply and would have a real economic impact on staff time, additional physical shelving, managing multiple ILS, etc. This would result in more limited service for children using the public library as regular residents. The individual suggested the language "Libraries and the school systems will have an agreement in place on library policy" or something similar as this would allow each community to follow the interlocal agreement to set policy. Similarly, TLA commented that the requirement in §1.73(b) that libraries meet any policy requirements for K-12 school environments in addition to the public library requirement would create significant barriers to public and school library partnerships, as not all policy requirements in the K-12 school environment are applicable to public libraries. TLA suggested modifying the language to allow the district and the library to develop a functional agreement that meets the needs of both entities: "Libraries and school districts will have an agreement in place that establishes the policies each must adhere to."

RESPONSE: In response to these comments, the commission is modifying the language of this section on adoption to read "(b) Library entities contracted with school districts to provide library services to the general public residing in the school district must provide services in addition to that provided to school students, faculty, and staff. The library and the school district must enter into an agreement that establishes the policies each facility must adhere to, including all applicable state laws and regulations. Public library services must be provided at least the required number of hours all weeks of the year, except those weeks with national or state holidays."

COMMENT: One individual asked whether the rule would allow a library to restrict certain collections within the library. Another individual noted that many high-cost materials, both physical and digital, are restricted to residents due to budgetary constraints. This individual recommended the rule maintain flexibility for libraries to restrict access to high-cost or limited resources, ensuring fair allocation of resources funded by local taxpayers.

RESPONSE: The accreditation rules were designed to work in alignment with a public library's policies and procedures. As such, a decision regarding restricting certain collections within the library or restricting access to high-cost or limited resources are policy decisions for the library.

COMMENT: One individual commented that offering database use free of charge is cost prohibitive as some resources are cost per use basis, or based on a service population that would greatly expand if required to offer to all. Another individual asked what a library would do about database services that require the library to limit use to cardholders under the license agreement.

RESPONSE: The rule as proposed acknowledged that free computer use would be subject to local license agreements. However, the commission is also changing the rule to only require a public library to make a good faith effort to allow use of computers and other technology to access information sources, databases, or other similar services as allowed by local license agreements, to the general public without charge, regardless of the person's residency. This change should resolve the concerns in the comment.

COMMENT: Two individuals requested clarification on what is considered circulation of materials; specifically, whether this includes digital items.

RESPONSE: Circulation of digital items is a local decision based on local policies and applicable license agreements. The commission encourages transparency so that patrons are informed about their borrowing privileges, whether they are residents or non-residents. Libraries are free to set policies they find appropriate for their community. However, state-provided digital materials must be freely available to all patrons with borrowing privileges. The commission declines to make a change in response to this comment.

COMMENT: One individual requested clarification on the definition of "reserving" materials, noting only residents can place holds via ILS while non-residents may call to have an item "saved" if it is available. This individual recommended allowing libraries to maintain existing hold policies based on their service capacity and budget constraints.

RESPONSE: The commission does not find it necessary to define "reserving" materials and declines to make a change in response to this comment. The accreditation rules were designed to work in alignment with a public library's policies and proce-

dures. As such, a decision regarding reserving materials is a policy decision for the library.

COMMENT: The commission received 14 comments from individuals and one from TLA related to computer use. One individual specifically asked whether a library could charge for computer use.

RESPONSE: In response to many of the comments expressing concern over requiring a library to provide access to computers free of charge, the commission is making a change on adoption. The rules as adopted only require a library to make a good faith effort to allow use of computers and other technology to access information sources, databases, or other similar services as allowed by local license agreements, to the general public without charge, regardless of the person's residency.

COMMENT: Three individuals requested clarification on whether the rules would prohibit requiring identification before using computers. One individual specifically noted the difficulty in tracking use of computer resources and enforcing the computer use policy. As an example, the commenter noted that if users are not identified, they may take advantage of multiple computer sessions per day. Another individual asked if a library would be allowed to require government-issued ID and proof of address, noting as stewards of the city's funds they want to be able to block users who do not follow rules, guidelines, and laws, so they need to establish identity before granting access.

RESPONSE: As noted above, the accreditation rules were designed to work in alignment with a public library's policies and procedures. As such, a decision regarding requiring identification before allowing an individual to use a computer is a policy decision for the library that is not impacted by these rules.

COMMENT: Three individuals requested clarification on whether the rule would allow a library to require either a library card or a computer use card to access computers. Two of these individuals noted that a computer use card may require presentation of identification but would not involve a charge.

RESPONSE: As noted above, the accreditation rules were designed to work in alignment with a public library's policies and procedures. As such, a decision regarding requiring identification or a computer use card before allowing an individual to access a computer is a policy decision for the library that is not impacted by these rules.

COMMENT: One individual asked whether the rules would allow a library to charge for a computer guest pass.

RESPONSE: As noted, in response to many of the comments expressing concern over requiring a library to provide access to computers free of charge, the commission is making a change on adoption. The rules as adopted only require a library to make a good faith effort to allow use of computers and other technology to access information sources, databases, or other similar services as allowed by local license agreements, to the general public without charge, regardless of the person's residency.

COMMENT: One individual expressed concern about allowing use of computers and other technology without charge regardless of residency, citing the accountability that comes with identified and carded users as opposed to anonymous persons having access. This individual questioned how libraries could monitor usage or ensure computer conduct policies are being adhered to otherwise, and asked who would provide funding if capacity increases. This individual suggested allowing a reduced charge to only access computer resources, noting that users should be

identified and held responsible for any misuse of public library equipment including physical damage of equipment as well as access inappropriate or damaging content/files.

RESPONSE: As noted, in response to many of the comments expressing concern over requiring a library to provide access to computers free of charge, the commission is making a change on adoption. The rules as adopted only require a library to make a good faith effort to allow use of computers and other technology to access information sources, databases, or other similar services as allowed by local license agreements, to the general public without charge, regardless of the person's residency.

COMMENT: One individual noted that printing services in the library are linked to a user's library account, so users without library cards would require staff intervention for every print job.

RESPONSE: The commission notes that the changes on adoption should address this concern. In addition, the accreditation rules were designed to work in alignment with a public library's policies and procedures. As such, a decision regarding requiring a library card for an individual to access a computer is a policy decision for the library.

COMMENT: One individual requested clarification on whether they could continue to charge non-residents for a computer use only card if a non-resident does not want borrowing privileges.

RESPONSE: The commission notes that the changes on adoption should address this concern. In addition, the accreditation rules were designed to work in alignment with a public library's policies and procedures. As such, a decision regarding charging for a computer-use only card is a policy decision for the library.

COMMENT: One individual asked whether it would be a problem under the new rule to require parental permission for minors on computer use and not allow independent computer use for patrons 9 years old and younger.

RESPONSE: As noted above, the accreditation rules were designed to work in alignment with a public library's policies and procedures. As such, decisions regarding requiring parental permission for minors on computer use and not allowing independent computer use for patrons 9 years old and younger are policy decisions for the library that are not impacted by these rules.

COMMENT: One individual asked whether it would be a problem under the new rule to block patrons from using computers or checking out additional material if the patron has unpaid lost items or excessive fees (until fees are cleared). Another individual requested general clarification on how a library could handle accounts blocked for overdue, lost, or damaged items.

RESPONSE: As noted above, the accreditation rules were designed to work in alignment with a public library's policies and procedures. As such, decisions regarding consequences of unpaid lost items, excessive fees, or blocked accounts are policy decisions for the library that are not impacted by these rules.

COMMENT: One individual noted that offering access to computers to anyone is not feasible within the library's service guidelines, financial constraints, or staffing.

RESPONSE: As noted above, in response to many of the comments expressing concern over requiring a library to provide access to computers free of charge, the commission is making a change on adoption. The rules as adopted only require a library to make a good faith effort to allow use of computers and other technology to access information sources, databases, or other

similar services as allowed by local license agreements, to the general public without charge, regardless of the person's residency.

COMMENT: One individual commented that decisions regarding the use of computers and technology should be made locally, within the community that funds the library.

RESPONSE: As noted above, in response to many of the comments expressing concern over requiring a library to provide access to computers free of charge, the commission is making a change on adoption. The rules as adopted only require a library to make a good faith effort to allow use of computers and other technology to access information sources, databases, or other similar services as allowed by local license agreements, to the general public without charge, regardless of the person's residency.

COMMENT: TLA commented that requiring public libraries to provide unlimited computer access to any individual that walks through the library doors is cost-prohibitive and would create a significant burden on staff. TLA also noted that unfettered access to all databases free-of-charge without regard to residency would be extremely expensive, as some resources are cost-per-use or based on a service population that would be greatly expanded. TLA requested this item be removed or modified as follows: "Use of computers and other technology to access information sources, databases, or other similar services as allowed by local license agreements to those with borrowing privileges."

RESPONSE: The rule as proposed acknowledged that free computer use would be subject to local license agreements. However, as noted above, the commission is changing the rule on adoption to only require a public library to make a good faith effort to allow use of computers and other technology to access information sources, databases, or other similar services as allowed by local license agreements, to the general public without charge, regardless of the person's residency. This change should resolve the concerns in the comment.

COMMENT: One individual requested clarification of the definition and requirements for "other technology" in §1.73(c)(5). This individual noted that new technology is often expensive, so would likely be introduced on a limited basis, prioritizing residents. The individual commented that mandating universal access to such technology could discourage libraries from investing in these resources. This individual recommended providing specific definitions and examples of "other technology."

RESPONSE: Because the commission is changing the rule on adoption to only require a public library to make a good faith effort to allow use of computers and other technology to access information sources, databases, or other similar services as allowed by local license agreements, to the general public without charge, regardless of the person's residency, the commission finds it is not necessary to describe "other technology." By not including a definition, a library may make its own determination regarding "other technology."

COMMENT: One individual noted that the rule appears to prohibit a library from charging for a program created with funds from the State Library. The commenter noted that some libraries allow their Friends group to host a program (and charge for the program), but a library without a Friends group would be unable to charge for a program. Due to limited budgets, it may come down to a minimal charge for a program or no program.

RESPONSE: In response to this and other comments, the commission is clarifying the language in this section to specify that admission to specific programs that are paid for in whole or part by state-awarded funds (as opposed to "sponsored in whole or in part by state resources" as proposed) must be free of charge regardless of whether the library has a Friends group. The commission believes this change clarifies that participation in a specific program paid for by a Texas State Library and Archives Commission Special Projects Grant, for example, should be free of charge.

COMMENT: One individual requested clarification on what "sponsored in whole or part by state resources" in §1.73(c)(7) includes, asking if a library receives any in-kind support for things like summer reading program materials would the library be precluded from charging for materials used in a sewing class. The individual also asked whether the rule would mean that if a library accepts any kind of support from the state they are precluded from charging any fee for any program whether or not state support goes directly to that program. Lastly, the individual asks if a library accepts state support for a particular program, would the library be precluded from charging a fee for that program but could charge fees for other programs that do not receive direct state support?

RESPONSE: As noted above, in response to this and other comments, the commission is clarifying the language in this section to specify that admission to programs that are paid for in whole or part by state-awarded funds (as opposed to "sponsored in whole or in part by state resources" as proposed) must be provided free of charge. The commission believes this language clarifies that participation in a specific program paid for by a Texas State Library and Archives Commission Special Projects Grant, for example, should be free of charge. This section should not be construed to apply broadly to any program offered by a library. The commission addressed the ability of a library to charge for materials in response to earlier comments.

COMMENT: One individual asked whether the receipt of in-kind services such as ILL, TexShare cards, and TexShare databases would preclude the library for charging for admission and/or materials for programs conducted by the library. The individual requested the agency further define the intended meaning of the phrase "sponsored in whole or part by state resources."

RESPONSE: As noted above, in response to this and other comments, the commission is clarifying the language in this section to specify that admission to programs that are paid for in whole or part by state-awarded funds (as opposed to "sponsored in whole or in part by state resources" as proposed) must be provided free of charge. The commission believes this language clarifies that participation in a specific program paid for by a Texas State Library and Archives Commission Special Projects Grant, for example, should be free of charge. As noted in response to other comments in this adoption, the InterLibrary Loan and TexShare Card programs have their own rules and guidelines not impacted by these rules.

COMMENT: One individual asked what it means for a program to be "sponsored" by state resources, citing the following as examples in need of clarification: educational lecture that uses images from the Texas Digital Archive, story time after children's librarian attended a reading-aloud webinar linked on TSLAC website, implementing a new program discovered on the Library Developments blog, and getting program advice from a nearby librarian whose phone number was located in the Library Directory.

RESPONSE: As noted above, in response to this and other comments, the commission is clarifying the language in this section to specify that admission to programs that are paid for in whole or part by state-awarded funds (as opposed to "sponsored in whole or in part by state resources" as proposed) must be provided free of charge. The commission believes this language clarifies that participation in a specific program paid for by a Texas State Library and Archives Commission Special Projects Grant, for example, should be free of charge.

COMMENT: One individual asked whether it is limiting to list items a library can charge for when we do not know what the future holds for libraries. The individual noted that libraries are often tasked with looking for revenue generating opportunities and suggested that perhaps the rule should be limited to a list of what a library cannot charge for to keep it simple and sustainable.

RESPONSE: As noted above, the commission is modifying this section on adoption to list only those services that must be provided free of charge. Decisions regarding charges for any other library services shall be made locally.

COMMENT: One individual suggested clarifying that the list of items a library may charge for in §1.73(d) be clarified as examples of permissible charges rather than a comprehensive list of charges, otherwise the subsection risks unwittingly limiting a library's ability to provide future services they have not yet been imagined but a library would need to charge for.

RESPONSE: As noted above, the commission is modifying this section on adoption to list only those services that must be provided free of charge. Decisions regarding charges for any other library services shall be made locally.

COMMENT: Two individuals asked whether the list of allowable charges is meant to be exhaustive or merely examples. One of the individuals also recommended specifying if the list is inclusive or provide a broader framework for libraries to set charges based on community needs.

RESPONSE: As noted above, the commission is modifying this section on adoption to list only those services that must be provided free of charge. Decisions regarding charges for any other library services shall be made locally.

COMMENT: TLA commented that by limiting what a library can charge for to this very narrow list, the rules do not leave room for staff and city/county leaders to respond to community needs or requests for services that may require additional fees to be fiscally responsible. TLA also noted that, as cities and counties face budget shortfalls, libraries are being tasked with looking for revenue generating opportunities. As such, this limited list will limit creativity in meeting the future needs of the library and the community. TLA recommend adding this language: "A public library may charge for additional services not specified in this section if the library staff and governing authority identify community needs that cannot be met in a fiscally responsible manner and require fees."

RESPONSE: As noted above, the commission is modifying this section on adoption to list only those services that must be provided free of charge. Decisions regarding charges for any other library services shall be made locally.

COMMENT: One individual commented that charging residents is expressly allowed in §1.73(e) but seems to be prohibited in §1.73(f).

RESPONSE: The commission is making changes in response to this and similar comments. Specifically, the rule will not list items a library may charge for but will specify only those services that must be provided free of charge. In addition, the commission is modifying the language to provide that circulation of materials must be provided free of charge to those with borrowing privileges who reside in the library's legal service area. While the commission encourages libraries to make more services available to the public regardless of a person's residency, the rule as adopted will leave the decision on whether to charge nonresidents for borrowing privileges up to the library and its governing authority.

The following comments relate to §1.75, Local Operating Expenditures:

COMMENT: One individual suggested that libraries who fail to meet the requirements of §1.75, Local Operating Expenditures, be given conditional accreditation one time.

RESPONSE: The commission notes that the appeal process in §1.82, Appeal of Accreditation Determination, provides a uniform process available to any library wishing to appeal an accreditation determination, including the waiver of this section. The appeal process is an important component of public transparency and agency due diligence with regard to public funds. The commission declines to extend the applicability of conditional accreditation in response to this comment.

COMMENT: One individual noted the difficulty for a library meeting the same standards for libraries with bigger populations when the library gets a very small amount of funding from a county, but their official service population is doubled due to the funding from the county.

RESPONSE: The commission acknowledges that the acceptance of county funds may increase a library's service population. However, this requirement has been in commission rule since at least 1977, and the commission declines to make a change at this time. The commission further notes that a library may appeal a population assignment if it impacts the library's accreditation status under §1.82, Appeal of Accreditation Determination.

COMMENT: TLA suggested adding "per capita" after \$22.00 in §1.75(d).

RESPONSE: The commission appreciates the comment. This typographical error was corrected in the published version of the rule.

COMMENT: TLA commented that §1.75(d) and (e) are almost identical and are perhaps redundant and requested clarification on the two subsections.

RESPONSE: The commission notes that subsection (d) refers to local government support and subsection (e) refers to total local operating expenditures. The commission has added language to both subsections to clarify the distinction and rearranged the sections for a more logical flow.

The following comments relate to §1.76, Quantitative Standards for Accreditation of Library:

COMMENT: One individual commented that the quantitative standard in §1.76(h) that a library serving a population of less than 25,000 persons is not required to employ a full-time equivalent professional librarian is disappointing and disrespectful, noting there are five institutions in Texas where an individual can earn the credentials to become a professional librarian

and the importance of professional librarians. The individual commented that by not requiring a professional librarian, the rule implies that librarians are an unnecessary expense.

RESPONSE: The commission appreciates the comment and notes its support for professional librarians. This rule does not devalue professional librarians but instead broadens the options for small and rural libraries that wish to operate a public library for their community whose workforce is likely much smaller than larger communities. These rules are intended to provide a sustainable and affordable framework for library operations. The commission is aware of the budget challenges of many small and rural communities. This provision is intended to recognize the needs of these small communities and their commitment to establishing a library for the community. We note the difficulty that many small communities have expressed in hiring and retaining professional librarians. The commission wholly endorses every effort to recruit and retain professional staff but believes the state is best served by offering these communities another option for staffing. The commission declines to change this long-standing requirement at this time.

COMMENT: One individual expressed concern over the requirement that at least 5% of a library's collection items be published or created in the last five years, noting that as a small library, the only way to realistically achieve compliance would be to weed a considerable portion of their collection, as they do not have the budget to purchase sufficient new titles. The individual noted that if the goal is to ensure a steady purchase of new materials, this could be achieved without limiting the presence of older materials in the collection.

RESPONSE: The commission notes that this rule is not intended to limit the presence of older materials in a collection but rather to ensure a collection is timely and includes relevant publications. The commission also notes that a library's item count includes e-materials. Because the state provides e-materials at no cost to small and rural public libraries, a small or rural library has access to a current catalog of e-materials that can facilitate meeting this requirement.

COMMENT: Two individuals submitted comments about the continuing education requirement for librarians, noting that finding pertinent and meaningful continuing education opportunities is challenging and many classes have a cost associated with them, creating an unfunded mandate.

RESPONSE: The commission provides a myriad of asynchronous opportunities for continuing education requirements for librarians at no charge. Therefore, the commission declines to make a change in response to this requirement.

COMMENT: One individual asked about the value difference between 10, 15, or 30 hours of required continuing education in terms of leadership and meaningful improvements and enhancement to professional development. This individual also asked what makes an acceptable and impactful continuing education opportunity, and suggested the agency consider participation in professional activities and organizations to count toward the goal. The individual also asked who decides relevancy and how it is applied and understood across the profession. Similarly, another individual asked about the parameters for these classes and clarification on the value difference between the number of hours in terms of leadership. This individual asked what makes an acceptable and impactful continuing education course and suggested it might be more beneficial to participate in network-

ing and professional groups so a librarian has a network of peers to support one another.

RESPONSE: Given the responsibilities of library operations, including administering public resources, navigating emerging challenges of cybersecurity, and implementing new technologies, the need for increased continuing education training for directors is imperative for efficient and effective public service. This rule is built on libraries determining what areas of advanced training are most relevant for the library in efficiently and effectively serving their patrons. The commission also notes the definition of continuing education in §1.71, Definitions, guides that the activities must be instructional, free of lobbying, and relevant to the operation of a library, and may include workshops, appropriate conference sessions, online training, and courses. Libraries may continue to consult with the commission's Library Development and Networking Division regarding continuing education opportunities if they have any questions. The commission believes the broad definition of continuing education coupled with support from the commission's Library Development and Networking Division provide libraries the most flexibility to meet this requirement. As such, the commission declines to make a change in response to this comment.

COMMENT: One individual noted that it is unclear why a director serving a larger population needs more continuing education credits than a director of a smaller community and also noted there is no description of what continuing education entails.

RESPONSE: The commission notes that robust training is important for all library staff. However, staff in small community libraries face greater challenges in participating in training given the need to keep a library open and able to assist patrons, often with only one or two library workers. The difference in required continuing education hours is only a reflection of the different capacities of libraries. The commission declines to make a change in response to this comment.

COMMENT: TLA noted that §1.76(f) requires library directors for libraries serving a population of 100,001 or more to complete a minimum of 20 hours of continuing education annually and directors serving populations of 100,000 or less to complete 10 hours annually. TLA asked what is the reason for the difference in the number of required hours, and what is the benefit in a director serving a larger population having to obtain more hours?

RESPONSE: As noted above, the commission notes that robust training is important for all library staff. However, staff in small community libraries face greater challenges in participating in training given the need to keep a library open and able to assist patrons, often with only one or two library workers. The difference in required continuing education hours is only a reflection of the different capacities of libraries. The commission declines to make a change in response to this comment.

COMMENT: One individual commented that requiring more continuing education for directors serving larger populations is unclear and disproportionate. This individual recommended basing continuing education requirements on the director's qualifications (e.g., MLS degree) rather than population size. The individual further commented that equitable continuing education requirements should be applied statewide.

RESPONSE: As noted above, the commission notes that robust training is important for all library staff. However, staff in small community libraries face greater challenges in participating in training given the need to keep a library open and able to assist patrons, often with only one or two library workers. The differ-

ence in required continuing education hours is only a reflection of the different capacities of libraries. The commission declines to make a change in response to this comment.

COMMENT: TLA noted a typographical error in §1.76(f)- the number should be 100,000 (not 100,00).

RESPONSE: The commission appreciates the comment and makes this correction on adoption.

The following comments are related to §1.77, Other Operational Requirements:

COMMENT: One individual commented that the rules seem to indicate every library must have a public computer, printer, copier, and scanner, and noted it is not feasible to expect every library to provide all of these technologies to the public. This individual also noted that expecting staff to troubleshoot additional technology will create an even greater challenge in hiring and retaining employees.

RESPONSE: The commission notes that the requirement for a computer, printer, copier, and scanner is not a new requirement (see repealed §1.83, Other Requirements, which requires a library to have available both a photocopier and a computer with Internet access for use by the library staff and at least one computer with Internet access and printing/copying capabilities for the general public). On adoption, the commission adds the requirement for a library to have at least one public access computer to the definition of public library in §1.71(10).

COMMENT: One individual requested consideration of making ILL optional for libraries that serve a lower population level, noting the infrequency of requests, challenges learning the program, lack of duplicate copies of books, and that the ILL program has nothing to do with the quality of a library.

RESPONSE: The commission notes that the requirement to participate in ILL is not a new accreditation requirement. Participation in ILL enhances a library's collection and augments a library's available collection, enabling a library to better serve its patrons and support lifelong learning. In addition, the agency offers ILL training and consultation directly to librarians at no cost. Finally, the commission reiterates that the accreditation criteria provide a baseline to assess minimum standards for quantitative measures for funding, circulation, and materials- they do not reflect a qualitative assessment of the library's operations or overall adequacy in satisfying community needs. The commission declines to make a change in response to this comment.

COMMENT: One individual commented that the requirement in §1.77(5) that a library have a strategic plan approved by its governing authority is problematic, noting that this individual's county does not undertake strategic planning and the requirement is essentially a mandate for local elected county officials to do something. The individual noted that it would not be problematic to present a strategic plan to the library board for approval, but it would be problematic to submit a strategic plan to the county commissioners for approval.

RESPONSE: The commission notes that this is not a new requirement (see repealed §1.83(6), which requires a library to have a "long-range plan that is approved by its governing board"). The commission notes that the language in the new rule is nearly identical, except that the plan is referred to as a strategic plan rather than a long-range plan. The commission further notes that the new rule explicitly builds in flexibility by noting that the strategic plan "may be part of a larger plan from

the governing authority." The commission declines to make a change in response to this comment.

COMMENT: One individual commented that their strategic long-range plan is part of the system of documents created by the city, and is an operational matter approved by the city manager's office to determine alignment with overall strategy. This individual suggested that within the city manager style of government, it should be left to the municipality for how this is handled; library accreditation should not extend into this area.

RESPONSE: The commission notes that the rule requires approval by the library's "governing authority," which would include any form of governance of a library, including city manager form of government. The commission declines to make a change in response to this comment.

COMMENT: One individual commented that the rule should specify what a strategic plan must include, such as measurable goals or alignment with statewide library standards, as plans could vary widely. The same individual suggested a standard template that could be submitted to TSLAC for peer review rather than that of a "governing body."

RESPONSE: While the commission does offer sample plans and training for drafting a strategic plan, the commission believes by not specifying the contents of a plan local officials retain the most flexibility to draft appropriate goals and policies for their community. The commission declines to make a change in response to this comment.

COMMENT: One individual suggested allowing an advisory board or city leadership (e.g., city manager) to approve a library's strategic plan.

RESPONSE: The commission notes that the requirement for a long-range plan approved by a library's governing board has been in place since at least 2004. In the new rule, the commission has broadened the approval authority by referring to "governing authority" as opposed to "governing board." This term encompasses any form of governance of a library, including a city manager form of government. Ideally, a library's strategic plan would be approved by all entities or individuals involved in the operation of a library. However, the rule only requires approval by the library's governing authority.

COMMENT: One individual commented that the requirement in §1.77(5) for a strategic plan is restrictive, as not all libraries have strategic plans or the means to develop strategic plans. The individual noted in their town, they are developing an overall town strategic plan, but it will not be library specific.

RESPONSE: The commission notes that it offers sample plans and training for drafting strategic plans. In addition, by not identifying specific components of a strategic plan in rule, the library is free to develop the plan that best meets the needs of the library and its governing authority. In addition, the rule notes that the strategic plan may be part of a larger plan from the governing authority. Given the flexibility afforded libraries in the rule as proposed, the commission declines to make a change in response to this comment.

COMMENT: One individual noted that their strategic plan is typically approved by their advisory board and it may not be possible for every city or library to get a strategic plan approved by city council if that is not their normal process. Another individual suggested allowing the governing authority, such as an advisory board or city leadership/city manager, approve the strategic plan.

RESPONSE: The commission has already addressed city manager style of governance and noted that use of the term "governing authority" is broad enough to include this structure. Further, the requirement for a library's governing body to approve a long-range plan has existed in the accreditation rules since at least 2004. As such, the commission declines to make a change in response to this comment.

COMMENT: TLA commented that in most cases, a library's strategic plan is not approved by its governing authority as a separate strategic plan (often the library advisory board in its advisory capacity); rather the library strategic plan functions as one part of the whole. TLA recommends deleting "that is approved by its governing authority and" - libraries will be required to have a strategic plan that is reviewed and updated at least every five years, and the plan may be part of the larger plan developed by the governing authority, but this change will provide flexibility for the various types of governing processes.

RESPONSE: The commission notes that the accreditation rules have required approval of a library's long-range plan by the library's governing board since at least 2004. The commission further notes that the new section as adopted acknowledges that the strategic plan may be part of a larger plan from the governing authority. The commission declines to make a change in response to this comment.

COMMENT: Two individuals noted that other city departments manage some of the specified policies and those departments may not post those policies publicly, adding that it is not the role of the library to require they be posted.

RESPONSE: The commission notes that the rule does not require the library to post policies. The rule requires that the policies be publicly available. If the appropriate policy is maintained by a different city department but the library is subject to the policy, then the library would be in compliance with this section by directing interested persons to the appropriate city department. If portions of a policy are considered confidential by the city, the city should follow the requirements of the Public Information Act in making those policies available. The commission declines to make a change in response to this comment.

COMMENT: One individual noted that it may not be feasible for libraries to address information security and privacy when other entities, such as IT departments, already have requirements in place. The individual also noted there is no mention of the content for these policies and suggested this be a recommendation, not a requirement.

RESPONSE: The commission notes that the rules do not require the library to draft the policies. The commission acknowledges that the library may be subject to policies created by other departments of the city or county, for example. If that is the case, then the library would be in compliance with this section by directing interested persons to the appropriate city or county department for the policy. The goal with this requirement is to ensure a library is able to support its decisions pertaining to circulation, collection development, technology use, and information security and privacy with written guidelines.

COMMENT: One individual noted that another department may be responsible for technology use and information security and privacy policies, noting that the library would have to defer to ITS.

RESPONSE: The commission acknowledges that the library may be subject to policies created by other departments of the city or county, for example. If that is the case, then the library

would be in compliance with this section by directing interested persons to the appropriate city or county department for the policy. The goal with this requirement is to ensure a library is able to support its decisions pertaining to circulation, collection development, technology use, and information security and privacy with written guidelines.

COMMENT: One individual commented that crafting information security and privacy policies requires specialized input and approval from the city IT department to ensure compliance with existing municipal standards and cybersecurity practices. This individual commented that it is unreasonable to require a non-library department, such as a city IT department, to adhere to rules set by the commission for library accreditation. This individual also commented that smaller or rural libraries may lack access to dedicated IT support, making compliance even more challenging. The individual recommended making the information security and privacy policy a recommendation rather than minimum accreditation requirement, allowing libraries to collaborate with their local resources as feasible.

RESPONSE: The commission notes that the rules do not require the library to draft the policies. The commission acknowledges that the library may be subject to policies created by other departments of the city or county, for example. If that is the case, then the library would be in compliance with this section by directing interested persons to the appropriate city or county department for the policy. The goal with this requirement is to ensure a library is able to support its decisions pertaining to circulation, collection development, technology use, and information security and privacy with written guidelines.

STATUTORY AUTHORITY. The new sections are adopted under Government Code, §441.135, which authorizes the commission to adopt guidelines for the awarding of grants; §441.136, which authorizes the commission to adopt rules necessary to the administration of the program of state grants, including qualifications for major resource system membership; §441.127, which provides that to be eligible for membership in a major resource system or regional library system, a library must meet the accreditation standards established by the commission; and §441.122(1) and (2), which defines "accreditation of libraries" as the evaluation and rating of libraries according to commission accreditation standards and "accreditation standards" as the criteria established by the commission that a library must meet to be accredited and eligible for membership in a major resource system.

§1.71. Definitions.

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

(1) Accreditation--means the process by which a library is accredited by the Texas State Library and Archives Commission as having met the standards in this subchapter. Accreditation is not required but determines the eligibility of public libraries to receive state assistance through programs and services of the Texas State Library and Archives Commission.

(2) Agency--means the Texas State Library and Archives Commission as an agency of the state of Texas, including the staff, collections, archives, operations, programs, and property of the Texas State Library and Archives Commission.

(3) Commission--means the seven-member governing body of the Texas State Library and Archives Commission.

(4) Continuing education--means professional development activities for library directors that are instructional, free of lobbying, and relevant to the operation of a library. Activities may include workshops, appropriate conference sessions, online training, and courses.

(5) Library collection item--means any item in the library's catalog that may be circulated, including books, e-books, audio and e-audio books, video and e-video items, non-traditional educational items such as kits, instruments, and equipment, and locally licensed databases or other informational items as determined by professional library standards.

(6) Library operating hours--means the number of unique hours the library is open to the public as set by local governing authorities based on and subject to local considerations, including need and budget.

(7) Local fiscal year--means the 12-month period used by a local entity for budgeting and operations. For accreditation purposes, it is the fiscal year in which January 1 of the requested year falls.

(8) Per capita--means the locally funded operating expenditures of the library divided by the library's assigned population under §1.72 of this title (relating to Legal Service Area).

(9) Professional librarian--means a person holding a master's degree or comparable certification in library or information studies from an accredited program.

(10) Public library--means a library that is operated by a single public entity or board, that is freely open to all persons under identical conditions, that receives its financial support in whole or part from public funds, and that provides the following at a minimum:

(A) An organized collection of print or other library materials, or a combination thereof;

(B) At least one public access computer;

(C) Paid or contracted staff;

(D) An established schedule in which services of the staff are available to the public; and

(E) The facilities necessary to support such a collection, staff, and schedule.

(11) State fiscal year--means the 12-month period beginning September 1 and ending August 31.

§1.72. Legal Service Area.

(a) A public library's legal service area is based on the source(s) of local government funding for the library and the population assigned to the library as described below. Legal service area calculations will be determined as follows using the population in the most recent decennial census or official population estimate of the United States Department of Commerce, Bureau of the Census, if available:

(1) In counties with one or more public libraries that receive only city and private funds, each library is credited with serving the population of the city or cities from which it receives funds or with which it has a contract.

(2) In counties with only one public library and that library receives county funds, the library is credited with serving the entire county population.

(3) In counties with more than one public library that receives both city and county funds, the libraries that receive city and county funds are credited with serving their city population plus a per-

centage of the population living outside the cities. This percentage is the ratio of each city's population to the total of all the populations of cities with public libraries within the county.

(4) In counties with a library established by the county commissioners court and that receives no city funds or an incorporated library that receives no city funds, and one or more city libraries that receive county funds, the city libraries that receive county and city funds are credited with serving their city populations plus a percentage of the county population living outside the cities. The percentage is the ratio of each city's population to the county population. The county library or incorporated library that receives county funds and no city funds serves all county residents not served by a city library.

(5) In counties with one library that receives county funds and one or more public libraries that do not receive county funds, the library that receives county funds is credited with serving the county population less the populations of cities with public libraries.

(6) In counties with more than one library that receives county funds and no city funds, the county population living outside cities with public libraries will be prorated among the libraries in the same ratio as the county funds are allocated.

(7) When school districts contract with one or more non-profit corporations, cities, municipalities, or counties for public library services as part of their students' educational program, the library is credited with serving the total population living within the school district, as published annually in the most recent Small Area Income and Poverty Estimate Program (SAIPE).

(8) Libraries that enter into agreements or contracts with counties, cities, municipalities, or school districts to provide public library services will be assigned the respective population under this section whether or not there is an exchange of funds.

(9) If a library believes it has been assigned an unrealistic population figure, it may request in writing that the Library Systems Act Advisory Board approve an exception to the population-served methodology. The board will use its discretion to devise a method by which data from the United States Department of Commerce, Bureau of the Census will be used to calculate the legal service area.

(b) If a library does not report receiving public monies for public library service, that library will be assigned no population.

(c) Population estimates assigned at the beginning of the state fiscal year will remain in place throughout the following annual report submission and review process period until new populations are assigned for the following cycle. Any resulting population changes will go into effect with the next assignment of the legal service areas.

§1.73. *Public Library Services.*

(a) A public library must provide the following services to the general public without charge:

- (1) Dissemination of civic, community, or other ephemeral material freely available and not in the library's catalog;
- (2) Circulation of materials to those with borrowing privileges who reside in the library's legal service area;
- (3) Reserving library materials to those with borrowing privileges who reside in the library's legal service area;
- (4) Reference services;
- (5) Admission to the facility;
- (6) Use of onsite resources that do not have to be reserved;

and

(7) Admission to programs conducted by the library that are paid for in whole or part by state-awarded funds.

(b) In recognition of the statewide benefit to the public having access to library materials, a public library is encouraged to provide services free of charge to the general public regardless of residency, including borrowing privileges. However, these rules do not prohibit a library from establishing policies, including the imposition of fees and terms, under which borrowing privileges may be extended to individuals living outside of the library's legal service area.

(c) A public library must make a good faith effort to allow use of computers and other technology to access information sources, databases, or other similar services as allowed by local license agreements, to the general public without charge, regardless of the person's residency.

(d) Library entities contracted with school districts to provide library services to the general public residing in the school district must provide services in addition to that provided to school students, faculty, and staff. The library and the school district must enter into an agreement that establishes the policies each library facility must adhere to, including all applicable state laws and regulations. Public library services must be provided at least the required number of hours all weeks of the year, except those weeks with national or state holidays.

(e) A public library shall serve all members of the general public, certifying annually that no person shall be excluded from participation in or denied the benefits of the appropriate services of that library in accordance with federal and state law.

§1.75. *Local Operating Expenditures.*

(a) A public library must demonstrate local effort on an annual basis by maintaining or increasing local operating expenditures or per capita local operating expenditures. Expenditures for the current reporting year will be compared to the average of the total local operating expenditures or to the average of the total per capita local operating expenditures for the three preceding years.

(b) A public library that expends at least \$22.00 per capita and at least \$200,000 of local funds is exempt from subsection (a) of this accreditation criterion.

(c) At least half of the annual local operating expenditures required to meet the minimum level of per capita support for accreditation must be from local government sources. Local government sources are defined as money appropriated by library districts, school districts, or city, municipal, or county governments.

(d) A public library that expends at least \$22.00 per capita is exempt from subsection (c) of this accreditation criterion if it shows evidence of some library expenditures from local government sources and is open to the public under identical conditions without charge.

(e) A public library must have minimum total local expenditures of \$24,000 in local fiscal years 2026, 2027, 2028; at least \$27,000 in local fiscal years 2029, 2030, 2031; at least \$30,000 in local fiscal years 2032, 2033, 2034.

§1.76. *Quantitative Standards for Accreditation of a Library.*

(a) A public library must meet the quantitative standards for accreditation in this section, in addition to the other requirements in this subchapter.

(b) A public library must have at least one library collection item per capita or expend at least 15 percent of the library's local expenditures on library collection items. If the library serves 25,000 persons or less, the library must maintain a collection of at least 7,500 library collection items.

(c) A public library must ensure that at least 5 percent of its library collection items were published or created in the last five years.

(d) A public library must be open for service not less than 40 hours per week, except that a public library that serves 25,000 persons or less must be open for not less than 20 hours per week.

(e) A public library must employ a library director for at least 40 hours per week, except that a public library that serves 25,000 persons or less must employ a library director for at least 20 hours per week.

(f) A library director for a library serving a population of 100,001 or more must complete a minimum of 20 hours of continuing education annually. A library director for a library serving a population of 100,000 or less must complete a minimum of 10 hours of continuing education annually. A library director must maintain documentation of attendance, duration, and relevance of each continuing education credit claimed.

(g) A library must have local expenditures as follows:

(1) A library serving a population of 200,001 persons or more must have local expenditures equaling at least \$13.50 per capita in local fiscal years 2026, 2027, 2028; at least \$13.91 in local fiscal years 2029, 2030, 2031; and at least \$14.32 per capita in local fiscal years 2032, 2033, 2034;

(2) A library serving a population of 100,001 - 200,000 persons must have local expenditures equaling at least \$10.50 per capita in local fiscal years 2026, 2027, 2028; at least \$10.82 in local fiscal years 2029, 2030, 2031; and at least \$11.14 per capita in local fiscal years 2032, 2033, 2034;

(3) A library serving a population of 25,001 - 100,000 persons must have local expenditures equaling at least \$7.50 per capita in local fiscal years 2026, 2027, 2028; at least \$7.73 in local fiscal years 2029, 2030, 2031; and at least \$7.96 per capita in local fiscal years 2032, 2033, 2034; and

(4) A library serving a population of 25,000 or less must have local expenditures equaling at least \$5.50 per capita in local fiscal years 2026, 2027, 2028; at least \$5.67 in local fiscal years 2029, 2030, 2031; and at least \$5.83 per capita in local fiscal years 2032, 2033, 2034.

(h) A library must employ full-time equivalent professional librarians as follows:

(1) A library serving a population of 200,001 persons or more must employ at least six full-time equivalent professional librarians with one additional full-time equivalent professional librarian for every 50,000 persons above 200,000;

(2) A library serving a population of 100,001 - 200,000 persons must employ at least four full-time equivalent professional librarians, with one additional full-time equivalent professional librarian for every 50,000 persons above 100,000;

(3) A library serving a population of 25,001 - 100,000 persons must employ at least one full-time equivalent professional librarian, with one additional full-time equivalent professional librarian for every 50,000 persons above 50,000; and

(4) A library serving a population of 25,000 or less is not required to have a professional librarian on staff.

§1.77. Other Operational Requirements.

Each public library applying for accreditation must meet the following requirements and report to the agency on the status of each requirement annually:

(1) The library must have a website detailing current services and contact information, including a telephone number and email address.

(2) The library must have available technology to enable staff and the general public to access the Internet and print, copy, and scan materials.

(3) The library must have an integrated searchable catalog of its holdings available to the public online through the library's website.

(4) The library must offer to borrow materials through the statewide interlibrary loan system for eligible persons residing within the library's legal service area and offer to lend materials to other participating Texas libraries using the statewide interlibrary loan system. The library's governing authority may adopt local policies regarding collections available to lend, lending periods and renewals, patron eligibility, and other factors. Local policies must be available to the public.

(5) The library must have a strategic plan that is approved by its governing authority and reviewed and updated at least every five years. The library's strategic plan may be part of a larger plan from the governing authority.

(6) At a minimum, the library must maintain current and publicly available policies or procedures, approved by the library's governing or designated authority, addressing the following subjects:

- (A) Circulation;
- (B) Collection Development;
- (C) Technology Use; and
- (D) Information Security and Privacy.

§1.80. Conditional Accreditation of a Library.

(a) Conditional accreditation is a temporary status granted when a library fails to meet one criterion in this subchapter. A conditionally accredited library enjoys the same benefits and privileges as a fully accredited library. A library that fails to meet more than one criterion is not eligible for conditional accreditation.

(b) The maximum length of time a library may be conditionally accredited is three years. A library that is still unable to meet an accreditation criterion at the end of the conditional accreditation period, whether it is the same or a new criterion, will not be accredited and must reapply for accreditation the following year.

(c) A public library actively seeking accreditation by securing the per capita support necessary for qualification may be conditionally accredited on the basis of the library's current operating budget rather than its expenditures of the preceding year.

(d) To be fully accredited, a library must meet all accreditation requirements in this subchapter by the end of the conditional accreditation period.

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

Filed with the Office of the Secretary of State on April 24, 2025.

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Sarah Swanson
General Counsel
Texas State Library and Archives Commission
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Proposal publication date: November 15, 2024
For further information, please call: (512) 463-5460



13 TAC §§1.71 - 1.75, 1.77, 1.79 - 1.87

The Texas State Library and Archives Commission (commission) adopts the repeal of Texas Administrative Code, Title 13, Chapter 1, Subchapter C, §§1.71 - 1.75, 1.77, 1.79 - 1.87, concerning Minimum Standards for Accreditation of Libraries in the State Library System. The repeal is adopted without changes to the proposed text as published in the November 15, 2024, issue of the *Texas Register* (49 TexReg 9148). The rules will not be re-published.

The repeal of these sections will enable the commission to update all of the accreditation standards for public libraries seeking accreditation for State Fiscal Year 2028. Some of the repealed language will remain unchanged in the new accreditation standards. However, because of the significant number of revisions and new sections, the commission determined the best approach was to repeal the existing sections and replace with new sections. The new sections may also be found in this issue of the *Texas Register*. The proposed repeals will become effective September 1, 2025.

SUMMARY OF COMMENTS. The commission did not receive any comments on the proposed repeals.

STATUTORY AUTHORITY. The repeals are adopted under Government Code, §441.135, which authorizes the commission to adopt guidelines for the awarding of grants; §441.136, which authorizes the commission to adopt rules necessary to the administration of the program of state grants, including qualifications for major resource system membership; §441.127, which provides that to be eligible for membership in a major resource system or regional library system, a library must meet the accreditation standards established by the commission; and §441.122(1) and (2), which defines "accreditation of libraries" as the evaluation and rating of libraries according to commission accreditation standards and "accreditation standards" as the criteria established by the commission that a library must meet to be accredited and eligible for membership in a major resource system.

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

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TITLE 16. ECONOMIC REGULATION

PART 4. TEXAS DEPARTMENT OF LICENSING AND REGULATION

CHAPTER 87. USED AUTOMOTIVE PARTS RECYCLERS

16 TAC §§87.1, 87.10, 87.71, 87.72, 87.78, 87.81

The Texas Commission of Licensing and Regulation (Commission) adopts amendments to existing rules at 16 Texas Administrative Code (TAC), Chapter 87, §§87.1, 87.10, 87.71, 87.72, and 87.78, and a new rule at §87.81 regarding the Used Automotive Parts Recyclers program, without changes to the proposed text as published in the December 20, 2024, issue of the *Texas Register* (49 TexReg 10173). These rules will not be re-published.

EXPLANATION OF AND JUSTIFICATION FOR THE RULES

The rules under 16 TAC, Chapter 87, implement Texas Occupations Code, Chapter 2309, Used Automotive Parts Recyclers.

The adopted rules implement Senate Bill (SB) 224, 88th Legislature, Regular Session (2023), the Deputy Darren Almdendarez Act, which addresses the issue of catalytic converter theft. Section 5.01 of the Act provides for the coordination of efforts between the Department and other state agencies, including the Motor Vehicle Crime Prevention Authority, the Department of Motor Vehicles, and the Department of Public Safety, in order for the respective agencies to effectively review records involving the purchase, acquisition, sale, or transfer of catalytic converters removed from motor vehicles and to respond to suspicious activities that may be detected through the analysis of these records.

Section 3.12 of the Act amends Occupations Code, Chapter 2305, Records of Certain Vehicle Repairs, Sales, and Purchases, by enacting new subchapter D, pertaining to records of sales or transfers of catalytic converters removed from vehicles. Occupations Code §2305.152 clarifies that the subchapter is applicable to used automotive parts recyclers (UAPRs). Section 2305.153 requires UAPRs to maintain accurate transaction records of the transaction for a period of two years. Under §2305.153(b), the record must contain a description made in accordance with the custom of the trade for the volume of catalytic converters sold or transferred, the name of the person to whom the catalytic converters were sold or transferred, and the date of the transaction. Section 2305.155 grants the Department authority to enter a licensee's premises for purpose of examining the records. The adopted rules implement these provisions by requiring UAPRs to maintain these records and furnish them to the Department for inspection upon request. The adopted rules additionally incorporate by reference the two-year records retention period required by SB 224.

The adopted rules additionally make changes in response to concerns raised during the Department's four-year rule review process under Government Code §2001.039. These changes include insertion of a reference to a newly adopted statute, Transportation Code §551A.001, which pertains to definitions related to off-highway vehicles, and the removal of an obsolete reference to §502.001. These changes also include additional amendments to clarify the duty to produce records for inspection, the record retention requirements for different types of records, and that both license plates and registration insignia must be removed. Lastly, the adopted rules make other clarifying changes, including the addition of language concerning the

applicability of the rules and the statutes implemented by the rules.

SECTION-BY-SECTION SUMMARY

The adopted rules amend §87.1, Authority. The adopted rules modify the rule heading to "Authority and Applicability." The rule is divided into two subsections, with the current substantive text stated in subsection (a) and new language inserted in the last sentence of subsection (a) and in subsection (b). The language inserted in subsection (a) clarifies that specific rule provisions implement Occupations Code, Chapter 2305, Transportation Code, Chapter 501, and other applicable statutes. The language consisting of subsection (b) clarifies that rules under 16 TAC Chapter 60, Procedural Rules of the Commission and the Department, are also applicable to the UAPR program.

The adopted rules amend §87.10, Definitions. References to Transportation Code §551A.001 are added to the introductory paragraph and to paragraph (9)(D), and an obsolete reference to Transportation Code §502.001 is deleted from paragraph (9)(D).

The adopted rules amend §87.71, Responsibilities of the Licensee--Record Retention. The heading is modified by adding the phrase "and Production" to reflect the expanded scope of the rule. The language of subsection (b) is modified to reflect that licensees generally must maintain records for three years unless a shorter period is specified elsewhere in the rules chapter. New subsection (c) is inserted with language reflecting a general one-year retention period for records of purchase or receipt of component parts, and a sentence clarifying that this provision does not apply to the receipt of catalytic converters. New subsection (d) is inserted, with language stating that the records retention requirements for catalytic converter transactions are as specified in new rule §87.81. New subsection (e) is inserted, with language setting forth a licensee's duty to produce records to a Department representative on request.

The adopted rules amend §87.72. The heading is modified by adding the phrase "Contact Information and" to reflect the expanded scope of the rule. New subsection (a) is inserted, with language requiring a licensee to notify the department within 30 days following any change in contact information. Existing subsections (a) and (b) are re-lettered as (b) and (c), respectively.

The adopted rules amend §87.78. The heading is modified by the insertion and removal of language to reflect the new scope of the rule. New subsection (a) is inserted, with language reflecting that licensees must remove both the license plates and registration insignia from the vehicles and must securely store the license plates until the plates are destroyed. Existing subsections (a) and (b) are re-lettered as (b) and (c), respectively.

The adopted rules add new §87.81, Responsibilities of the Licensee--Catalytic Converter Theft Prevention. The rule contains three subsections, (a) through (c). Subsection (a) sets forth the requirement to create and maintain accurate records of catalytic converter sales and transfers. Subsection (b) provides that the records must include the name of the purchaser or transferee, a description of the quantity of catalytic converters, and the date of the transaction. Subsection (c) sets forth a two-year retention period for these records and a requirement to produce the records, and any removed catalytic converters, for inspection when directed to do so.

PUBLIC COMMENTS

The Department drafted and distributed the proposed rules to persons internal and external to the agency. The proposed rules

were published in the December 20, 2024, issue of the *Texas Register* (49 TexReg 10173). The public comment period closed on January 21, 2025. The Department received a comment from one interested party on the proposed rules. The public comment is summarized below.

Comment: The commenter provided a copy of a catalytic converter sales receipt without additional information and did not express an opinion for or against adoption of the proposed rules.

Department Response: Because the commenter did not express an opinion concerning the proposed rules, the Department does not recommend any changes to the proposed rules and will direct the correspondence to the appropriate division for further action.

ADVISORY BOARD RECOMMENDATIONS AND COMMISSION ACTION

The Used Automotive Parts Recycling Advisory Board met on March 6, 2025, to discuss the proposed rules and the public comments received. The Advisory Board recommended that the Commission adopt the proposed rules as published in the *Texas Register*. At its meeting on April, 9, 2025, the Commission adopted the proposed rules as recommended by the Advisory Board.

STATUTORY AUTHORITY

The adopted rules are adopted under Texas Occupations Code, Chapters 51 and 2309, which authorize the Texas Commission of Licensing and Regulation, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the adopted rules are those set forth in Texas Occupations Code, Chapters 51, 2305, and 2309. No other statutes, articles, or codes are affected by the adopted rules.

The legislation that enacted the statutory authority under which the adopted rules are proposed to be adopted is Senate Bill 224, 88th Legislature, Regular Session (2023).

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

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Doug Jennings

General Counsel

Texas Department of Licensing and Regulation

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For further information, please call: (512) 463-7750



CHAPTER 112. HEARING INSTRUMENT FITTERS AND DISPENSERS

The Texas Commission of Licensing and Regulation (Commission) adopts amendments to existing rules at 16 Texas Administrative Code (TAC), Chapter 112, Subchapter A, §112.2; Subchapter E, §112.44; and Subchapter L, §112.110; the repeal of existing rules at Subchapter H, §112.70 and §112.72; and the addition of new rules at Subchapter H, §112.70 and §§112.73 - 112.76, regarding the Hearing Instrument Fitters and Dispensers

program, without changes to the proposed text as published in the November 29, 2024, issue of the *Texas Register* (49 TexReg 9688). These rules will not be republished.

EXPLANATION OF AND JUSTIFICATION FOR THE RULES

The rules under 16 TAC, Chapter 112, implement Texas Occupations Code, Chapter 402, Hearing Instrument Fitters and Dispensers; and Chapter 51, the enabling statute of the Texas Commission of Licensing and Regulation (Commission) and the Department.

The adopted rules are necessary to update the current administrative rules and the continuing education (CE) requirements for hearing instrument fitter and dispenser apprentices, license holders, and CE providers. The adopted rules are a result of changes suggested during the required four-year rule review related to CE; changes recommended by the Education and Examination Workgroup of the Hearing Instrument Fitters and Dispensers Advisory Board; and other suggested changes made possible, in part, by House Bill (HB) 1560, 87th Legislature, Regular Session (2021), the Department's Sunset legislation.

The adopted rules also change the CE provider registration term from one year to two years and increase the registration application fees from \$200 annually to \$400 every two years. Beginning May 1, 2025, the provider registrations will change from one-year to two-year terms, and the application and renewal fees will reflect this change. Existing provider registrations will be valid for one year if renewed before May 1, 2025, or for two years if renewed on or after May 1, 2025.

Four-Year Rule Review Changes

The adopted rules include changes as a result of the required four-year rule review conducted under Texas Government Code §2001.039. The Department conducted the required four-year rule review of the rules under 16 TAC Chapter 112, and the Commission readopted the rule chapter in its entirety and in its current form. (Proposed Rule Review, 45 TexReg 7281, October 9, 2020. Adopted Rule Review, 46 TexReg 2050, March 26, 2021).

In response to the Notice of Intent to Review that was published, the Department received comments from two interested parties regarding 16 TAC Chapter 112, one of which is applicable to this rules package and will be addressed as part of this rules package. The comment suggested changes to the continuing education provider registration fee under §112.110. The comment suggested having a separate CE provider registration fee of \$25 paid bi-annually for out-of-state CE providers, which may encourage more out-of-state providers to become registered CE providers for the Hearing Instrument Fitters and Dispensers program. The Department disagrees with the suggestion to treat out-of-state providers differently, and this suggested change is not included in the adopted rules.

The adopted rules include changes based on the Department's review of the rules during the rule review process related to continuing education and changes recommended by the Education and Examination Workgroup.

Other Changes Made Possible by HB 1560

HB 1560, Sections 1.15 and 1.25, amended Texas Occupations Code §402.207(c) and repealed §402.303, to remove detailed requirements regarding the number of CE hours, the methods of CE delivery, the types of CE providers, and the approval of CE providers and courses. HB 1560, Section 1.12, also added broad rulemaking authority under Texas Occupations Code

§51.405 regarding CE requirements and CE providers. The adopted rules revise and/or eliminate some of the CE provisions that were previously required by statute. The adopted rules allow more flexibility on the methods of CE delivery and the types of CE hours that may be obtained, and they eliminate the need for individual CE courses to be approved by the Department.

The adopted rules prescribe and expand the CE hours, courses, and methods of delivery. The adopted rules decrease the number of CE hours an apprentice permit holder must complete during the apprentice year, specify the type of proof necessary to claim CE credit during the apprentice permit year, and limit how and when an apprentice can claim CE credit. The adopted rules expand the methods of CE course delivery a hearing instrument fitter and dispenser license holder can use to earn CE hours; limit how and when a license holder can claim CE credit; and provide details on alternative methods for a license holder to obtain CE hours.

The adopted rules also modify provisions for CE providers relating to registration and application requirements; registration issuance, term, and renewal requirements; and the responsibilities imposed on CE providers. The adopted rules also extend the CE provider registration term from one year to two years and restructure the registration fees from \$200 annually to \$400 every two years. In addition, the adopted rules eliminate the current requirement that each CE course offered or provided by a registered CE provider must be approved by the Department.

Finally, the adopted rules include changes recommended by Department staff to correct and update citations and cross-references to improve accuracy, readability, and consistency in the rule text.

SECTION-BY-SECTION SUMMARY

Subchapter A. General Provisions.

The adopted rules amend §112.2, Definitions. The adopted rules add definitions for the following new terms: "continuing education methods of delivery," "in-person continuing education course," "online continuing education course," and "virtual (or virtually) continuing education course." The adopted rules also amend the existing definition of "continuing education hour"; reorganize in alphabetical order the existing terms "continuing education hour" and "contract"; and renumber the terms in this section.

Subchapter E. Apprentice Permit.

The adopted rules amend §112.44, Apprentice Permit--Continuing Education. The adopted rules under subsection (a) reduce the required number of CE hours from 20 hours to 10 hours during the apprentice year; eliminate the requirement that all CE hours must be completed in the classroom; allow five CE hours to be completed online; and clarify that virtual courses are not considered online courses. The adopted rules amend subsection (b) to clarify that all CE courses completed during an apprentice year must be provided by a Department-registered continuing education provider. The adopted rules amend subsection (c) by requiring the permit holder to provide proof of attendance in a form and manner prescribed by the Department. The adopted rules add new subsections (d) and (e) to clarify that the apprentice permit holder will not receive credit for completing the same CE course more than once during the permit term, will not receive credit without attending the full CE course, and will not receive partial credit for attending less than the full course.

Subchapter H. Continuing Education Requirements.

The adopted rules repeal §112.70, Continuing Education--Hours and Courses. The requirements in this section are being repealed and replaced with the updated requirements in new §112.70.

The adopted rules add new §112.70, Continuing Education--Hours, Courses, and Methods of Delivery. This new section replaces existing §112.70, with the following adopted changes. The adopted rules change the title of this section from "Continuing Education--Hours and Courses" to "Continuing Education--Hours, Courses, and Methods of Delivery." The adopted rules reorganize this section to group the requirements for each CE method or activity into separate subsections. The adopted rules clarify in subsection (b) that a license holder may complete the 20 CE hours that are required each license term through the continuing education methods prescribed under subsections (c) - (g).

The adopted rules under subsection (c) allow hearing instrument fitter and dispenser license holders to earn the required CE hours by completing CE courses offered in-person, online, or virtually and prescribe the conditions under which the hours can be completed. The adopted rules increased the current limit on the number of CE hours received from a manufacturer CE provider from no more than five hours to no more than 10 hours per license term. The adopted rules continue the current limit on the number of online CE hours received to no more than 10 hours per license term, but the adopted rules clarify that virtual courses are not considered to be online course.

The adopted rules under subsection (d) clarify that a license holder may not receive more than five hours of CE credit per license term for preparation of a published book or article. The adopted rules under subsection (e) address earning CE credit for completion of academic courses related to the fitting and dispensing of hearing instruments. The adopted rules under subsection (f) address earning CE credit for participating in or teaching programs directly related to the fitting and dispensing of hearing instruments and limit the number of CE hours that may be received per license term to five CE hours. The adopted rules under subsection (g) authorize license holders to earn continuing education hours by serving as proctors for practical tests, with a maximum of one in-person CE hour per test date and four in-person CE hours per license term. The adopted rules under subsection (h) address activities that will not receive CE credit, and the adopted rules under subsection (i) addresses statutory CE exemptions.

The adopted rules repeal §112.72, Continuing Education--Providers. The requirements in this section are being repealed and replaced with the updated requirements in new §§112.73 - 112.76.

The adopted rules add new §112.73, Continuing Education Provider--Registration Requirement and Application. The adopted rules require CE providers to register with the Department in order to offer or provide CE courses for the Hearing Instrument Fitters and Dispensers program. The adopted rules prescribe the application requirements for a CE provider registration. The adopted rules require the courses provided by a CE provider meet certain specified requirements, but the individual CE courses no longer must be approved by the Department.

The adopted rules add new §112.74, Continuing Education Provider--Issuance of Registration. The adopted rules provide details on CE provider registrations issued by the Department after a CE provider registration application has been approved.

The adopted rules add new §112.75, Continuing Education Provider--Registration Term; Renewal. The adopted rules extend the current CE provider registration term from one year to two years and specify the requirements for renewal and the consequences of non-renewal. The adopted rules include transition provisions. A registration is valid for one year if the registration was issued before May 1, 2025, or two years if the registration was issued on or after May 1, 2025. Similarly, the adopted rules establish that a registration renewed by the Department is valid for one year if the renewal was issued before May 1, 2025, and must be renewed annually, or two years if the renewal was issued on or after May 1, 2025, and must be renewed every two years. The adopted rules also provide that a list of registered CE providers will be available through a search function on the Department's website.

The adopted rules add new §112.76, Continuing Education Provider--Provider Responsibilities. The adopted rules establish the responsibilities of CE providers registered with the Department and include provisions addressing advertisements, credit hours, delivery and administration of the courses, validation for online and virtual courses, certificates of completion, record-keeping, and audits. The adopted rules also specify actions by a CE provider that constitute violations of the rules.

Subchapter L. Fees.

The adopted rules amend §112.110, Fees. The adopted rules under subsection (f) restructure registration and renewal fees for continuing education providers to align with the CE provider registration term that is being extended from one year to two years. The continuing education provider registration fee is increased from a \$200 fee paid upon application and then a \$200 fee paid annually upon renewal, to a \$400 fee paid upon application and a \$400 fee paid every two years upon renewal.

PUBLIC COMMENTS

The Department drafted and distributed the adopted rules to persons internal and external to the agency. The adopted rules were published in the November 29, 2024, issue of the *Texas Register* (49 TexReg 9688). The public comment period closed on December 30, 2024. The Department received comments from one interested party on the proposed rules. The public comment is summarized below.

Comment: The comment was submitted by the Texas Hearing Aid Association (THAA). THAA's comment was, in effect, a proposal by THAA to assist TDLR with CE Course provider approval. Specifically, THAA offered to serve as the approved CE provider and oversight body for hearing instrument fitters and dispensers in the state of Texas. As the comment did not suggest any changes to the proposed rules, the Department interprets this comment in support of the proposed amendments.

Department Response: THAA's comment did not directly address the content of the proposed rules. Instead, the comment was a proposal by THAA to assist TDLR with CE Course provider approval. The comment did not propose any changes or raise any concerns or issues with the proposed rules package, so the Department cannot agree or disagree with the substance of THAA's comment. Thus, the Department has made no changes to the proposed rules as a result of the comment.

ADVISORY BOARD RECOMMENDATIONS AND COMMISSION ACTION

The Hearing Instrument Fitters and Dispensers Advisory Board met on March 4, 2025, to discuss the proposed rules and the

public comments received. The Advisory Board recommended that the Commission adopt the proposed rules as published in the *Texas Register*. At its meeting on April 9, 2025, the Commission adopted the proposed rules as recommended by the Advisory Board.

SUBCHAPTER A. GENERAL PROVISIONS

16 TAC §112.2

STATUTORY AUTHORITY

The adopted rules are adopted under Texas Occupations Code, Chapters 51 and 402, which authorize the Texas Commission of Licensing and Regulation, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the adopted rules are those set forth in Texas Occupations Code, Chapters 51 and 402. No other statutes, articles, or codes are affected by the adopted rules.

The legislation that enacted the statutory authority under which the adopted rules are proposed to be adopted is House Bill 1560, 87th Legislature, Regular Session (2021).

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

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Doug Jennings

Texas Department of Licensing and Regulation

General Counsel

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SUBCHAPTER E. APPRENTICE PERMIT

16 TAC §112.44

STATUTORY AUTHORITY

The adopted rules are adopted under Texas Occupations Code, Chapters 51 and 402, which authorize the Texas Commission of Licensing and Regulation, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the adopted rules are those set forth in Texas Occupations Code, Chapters 51 and 402. No other statutes, articles, or codes are affected by the adopted rules.

The legislation that enacted the statutory authority under which the adopted rules are proposed to be adopted is House Bill 1560, 87th Legislature, Regular Session (2021).

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SUBCHAPTER H. CONTINUING EDUCATION REQUIREMENTS

16 TAC §112.70, §112.72

STATUTORY AUTHORITY

The adopted repeals are repealed under Texas Occupations Code, Chapters 51 and 402, which authorize the Texas Commission of Licensing and Regulation, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the adopted repeals are those set forth in Texas Occupations Code, Chapters 51 and 402. No other statutes, articles, or codes are affected by the adopted repeals.

The legislation that enacted the statutory authority under which the adopted repeals are proposed to be adopted is House Bill 1560, 87th Legislature, Regular Session (2021).

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

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16 TAC §§112.70, 112.73 - 112.76

STATUTORY AUTHORITY

The adopted rules are adopted under Texas Occupations Code, Chapters 51 and 402, which authorize the Texas Commission of Licensing and Regulation, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the adopted rules are those set forth in Texas Occupations Code, Chapters 51 and 402. No other statutes, articles, or codes are affected by the adopted rules.

The legislation that enacted the statutory authority under which the adopted rules are proposed to be adopted is House Bill 1560, 87th Legislature, Regular Session (2021).

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

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Doug Jennings

General Counsel

Texas Department of Licensing and Regulation

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For further information, please call: (512) 475-4879



SUBCHAPTER L. FEES

16 TAC §112.110

STATUTORY AUTHORITY

The adopted rules are adopted under Texas Occupations Code, Chapters 51 and 402, which authorize the Texas Commission of Licensing and Regulation, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the adopted rules are those set forth in Texas Occupations Code, Chapters 51 and 402. No other statutes, articles, or codes are affected by the adopted rules.

The legislation that enacted the statutory authority under which the adopted rules are proposed to be adopted is House Bill 1560, 87th Legislature, Regular Session (2021).

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

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TITLE 19. EDUCATION

PART 1. TEXAS HIGHER EDUCATION COORDINATING BOARD

CHAPTER 1. AGENCY ADMINISTRATION

SUBCHAPTER S. HIGHER EDUCATION

STRATEGIC PLANNING COMMITTEE

19 TAC §§1.213 - 1.219

The Texas Higher Education Coordinating Board (Coordinating Board) adopts repeal of Title 19, Part 1, Chapter 1, Subchapter S, §§1.213 - 1.219, Higher Education Strategic Planning Committee, without changes to the proposed text as published in the February 7, 2025, issue of the *Texas Register* (50 TexReg 715). The rules will not be republished.

The repeal eliminates the subchapter and the Higher Education Strategic Planning Committee, which was set to be abolished no later than January 1, 2016, and which no longer meets.

No comments were received regarding the adoption of the repeal.

The repeal is adopted under Texas Education Code, Section 61.027, which provides the Coordinating Board with the authority to adopt and publish rules in accordance with Texas Government Code, Chapter 2001.

The adopted repeal affects Texas Administrative Code, Title 19, Part 1, Chapter 1, Subchapter S.

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

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SUBCHAPTER U. MARKETABLE SKILLS

TASK FORCE

19 TAC §§1.230 - 1.236

The Texas Higher Education Coordinating Board (Coordinating Board) adopts repeal of Title 19, Part 1, Chapter 1, Subchapter U, §§1.230 - 1.236, Marketable Skills Task Force, without changes to the proposed text as published in the February 7, 2025, issue of the *Texas Register* (50 TexReg 715). The rules will not be republished.

The repeal eliminates the subchapter and the Marketable Skills Task Force, which was set to be abolished no later than August 30, 2023, and which no longer meets.

No comments were received regarding the adoption of the repeal.

The repeal is adopted under Texas Education Code, Section 61.027, which provides the Coordinating Board with the authority to adopt and publish rules in accordance with Texas Government Code, Chapter 2001.

The adopted repeal affects Texas Administrative Code, Title 19, Part 1, Chapter 1, Subchapter U.

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

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CHAPTER 2. ACADEMIC AND WORKFORCE
EDUCATION

SUBCHAPTER J. APPROVAL OF DISTANCE
EDUCATION FOR PUBLIC INSTITUTIONS

19 TAC §2.207

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments to Title 19, Part 1, Chapter 2, Subchapter J, §2.207, Effective Date of Rules, without changes to the proposed text as published in the February 7, 2025, issue of the *Texas Register* (50 TexReg 716). The rule will not be republished.

This adopted amendment clarifies institutional submission deadlines for renewing their Institutional Plan for Distance Education (IPDE).

Section 2.207, Effective Date of Rules, is amended to clarify the submission deadline for the first renewal submission following the effective date of the amended rules to be within one year of the institution's reaffirmation cycle. Currently §2.207 states, "IPDEs currently on file as of December 1, 2023, will remain filed in good standing until the first due date under §2.205(d)(1)," leaving two potential deadline options. To stagger submission dates, the renewal submission deadline following the effective date of the adopted rule will only be no later than one year after receiving final disposition of the institution's comprehensive renewal of accreditation report from their institutional accreditor, as required by 34 CFR §602.19. This adopted amendment will allow the Coordinating Board and institutions to manage distance education approval workflows appropriately.

No comments were received regarding the adoption of the amendments.

The amendment is adopted under Texas Education Code, Section 61.0512, which requires that institutions must seek prior Coordinating Board approval before offering distance learning courses.

The adopted amendment affects Texas Administrative Code, Title 19, Part 1, Chapter 2, Subchapter J, Section 2.207.

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

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CHAPTER 4. RULES APPLYING TO
ALL PUBLIC INSTITUTIONS OF HIGHER
EDUCATION IN TEXAS
SUBCHAPTER Y. PROVISIONS REGARDING
SCHOLARSHIP TO A RELATIVE OF A BOARD
MEMBER OF AN INSTITUTION OF HIGHER
EDUCATION OR UNIVERSITY SYSTEM

19 TAC §§4.380 - 4.385

The Texas Higher Education Coordinating Board (Coordinating Board) adopts new rules in Title 19, Part 1, Chapter 4, Subchapter Y, §§4.380 - 4.385, Provisions Regarding Scholarship to a Relative of a Board Member of an Institution of Higher Education or University System, without changes to the proposed text as published in the February 14, 2025, issue of the *Texas Register* (50 TexReg 815). The rules will not be republished.

This new section establishes the authority and purpose, definitions, applicability, and substantive requirements relating to mitigating the appearance of favoritism in the offering of certain scholarships at public colleges and universities. The Coordinating Board is authorized to adopt rules regarding this subject by Texas Education Code, §51.969.

The adopted rules are reconstituted from Texas Administrative Code, Title 19, Part 1, Chapter 21, Subchapter O. Nonsubstantive revisions were made by eliminating unnecessary provisions or definitions, adding citations, and updating rule language for improved clarity.

Rule 4.380, Authority and Purpose, establishes the statutory authority for the subchapter and outlines its purpose. It is the reconstituted and simplified current §21.468.

Rule 4.381, Definitions, establishes definitions for relevant words or phrases used throughout the subchapter. It is the reconstituted §21.469, with definitions removed that are duplicative with §4.3 in the chapter's General Provisions.

Rule 4.382, Applicability, specifies that the rules apply to persons attending any public institution of higher education in Texas. It is the reconstituted and retitled §21.470, with non-substantive revisions to improve clarity.

Rule 4.383, Prohibited Scholarships, establishes the type of applicable scholarships subject to the rules of the subchapter and the circumstances in which an individual may be ineligible for these scholarships. It is the reconstituted §21.471, with nonsubstantive revisions to improve readability.

Rule 4.384, Declaration of Eligibility, outlines the written statement students must file with their institutions prior to receiving a scholarship subject to this subchapter's provisions. It is the reconstituted §21.472.

Rule 4.385, Criminal Penalty, establishes the criminal penalty associated with making a false statement on the Declaration of Eligibility. It is the reconstituted §21.473, with updated citation.

No comments were received regarding the adoption of the new rules.

The new section is adopted under Texas Education Code, Section 51.969, which provides the Coordinating Board with the authority to adopt rules relating to the provisions of that section.

The adopted new section affects Texas Administrative Code, Title 19, Part 1, Chapter 4.

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

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Nichole Bunker-Henderson

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CHAPTER 10. GRANT PROGRAMS

SUBCHAPTER A. GENERAL PROVISIONS

19 TAC §§10.1 - 10.8

The Texas Higher Education Coordinating Board (Coordinating Board) adopts new rules in Title 19, Part 1, Chapter 10, Subchapter A, §§10.1 - 10.8, General Provisions, without changes to the proposed text as published in the February 7, 2025, issue of the *Texas Register* (50 TexReg 717). The rules will not be re-published.

The new subchapter sets forth definitions and requirements for all Coordinating Board grant programs and establishes minimum requirements for all grantees receiving grant funds from the Coordinating Board. The adopted subchapter allows the Coordinating Board to enforce uniform and fair standards, definitions, and criteria across all grant programs administered by the agency in accordance with the Texas Grant Management Standards.

Sections 61.035 and 61.051(a)(5) of the Texas Education Code provides the Coordinating Board with authority to administer and monitor Coordinating Board grant funds. To effectively and efficiently administer and monitor Coordinating Board grant programs, the Coordinating Board adopts new rules as follows.

Section 10.1, Purpose and Authority, provides the purpose and authority for the general provisions applicable to Coordinating Board administered grant programs. This section sets forth that this purpose allows for the administration of programs and funds while ensuring necessary compliance monitoring.

Section 10.2, Definitions, establishes standard definitions that may be used across all Coordinating Board grant programs to better aid in Coordinating Board consistency in the administration of grant programs. These standard definitions promote efficient operation of Coordinating Board administered programs.

Section 10.3, Competitive Grant Process, sets forth the minimum requirements for the Coordinating Board to administer a competitive grant program. The minimum standards are designed to comply with the Texas Grant Management Standards and allow for Coordinating Board monitoring of grant programs.

Section 10.4, Non-competitive Grant Process, sets forth the minimum requirements for the Coordinating Board to administer a

non-competitive grant program. The minimum standards are designed to comply with the Texas Grant Management Standards and allow for Coordinating Board monitoring of grant programs.

Section 10.5, Grant Awards, sets forth the minimum requirements for the Coordinating Board to issue a grant award as well as the minimum requirements a grantee must meet to receive and retain a grant award. This section is adopted in accordance with §61.035 of the Texas Education Code to ensure funds are distributed in accordance with applicable law and Coordinating Board rules.

Section 10.6, Reporting, sets forth minimum grantee reporting requirements to enable the Coordinating Board to appropriately monitor grantee's use and progress with the grant award. This section is adopted in accordance with §61.035 of the Texas Education Code to ensure funds are expended in accordance with applicable state laws and Coordinating Board rules.

Section 10.7, Compliance, sets forth the minimum compliance requirements a grantee is subject to by receiving a Coordinating Board grant award. These minimum compliance requirements are developed in accordance with the Texas Grant Management Standards and §61.035 of the Texas Education Code.

Section 10.8, Additional Requirements, requires the Coordinating Board to provide grantee written notice in the event grantee makes unauthorized or prohibited expenditures of Coordinating Board grant awards. These requirements ensure that grant funds are used in accordance with applicable laws and Coordinating Board rules as well as to ensure programs are administered to reach the state's goals.

Section 10.8 further provides the grantee with an opportunity to contest such notice and requires the grantee to reimburse the Coordinating Board for unauthorized or prohibited expenditures. This rule allows the Grantee an opportunity to be heard and for the Coordinating Board to review. It also helps to ensure that the Coordinating Board is able to administer grant funds in accordance with applicable law and Coordinating Board rules.

No comments were received regarding adoption of the new rules.

The new sections are adopted under Texas Education Code, Sections 61.035 and 61.051(a)(5), which provide the Coordinating Board with the authority to administer and monitor the distribution of grant funds.

The adopted new sections affect Texas Administrative Code, Title 19, Part 1, Chapter 10, Grant Programs.

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

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Texas Higher Education Coordinating Board

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CHAPTER 13. FINANCIAL PLANNING

SUBCHAPTER P. COMMUNITY COLLEGE FINANCE PROGRAM FOR FISCAL YEAR 2024

19 TAC §§13.470 - 13.477

The Texas Higher Education Coordinating Board (Coordinating Board) adopts repeal of Title 19, Part 1, Chapter 13, Subchapter P, §§13.470 - 13.477, Community College Finance Program for Fiscal Year 2024, without changes to the proposed text as published in the February 7, 2025, issue of the *Texas Register* (50 TexReg 719). The rules will not be republished.

The adopted repeal removes sections superseded by rules adopted by the Coordinating Board in April 2024 which are now in Chapter 13, Subchapter S, of this title.

The Coordinating Board initially adopted rules relating to the new community college finance system on an emergency basis in August 2023, including Subchapter P in Chapter 13, allowing for the implementation of H.B. 8 by the start of the 2024 fiscal year. Chapter 13, Subchapter S, which became effective on September 1, 2024, is the primary community college finance subchapter beginning in fiscal year 2025.

No comments were received regarding the adoption of the repeal.

The repeal is adopted under Texas Education Code, Section 130A.005, which provides the Coordinating Board with the authority to adopt rules and take other actions consistent with Texas Education Code, Chapter 61, Chapter 130, and Chapter 130A to implement Tex. H.B. 8, 88th Leg., R.S. (2023). In addition, Texas Education Code, Section 130.355, permits the Coordinating Board to establish rules for funding workforce continuing education.

The adopted repeal affects Texas Education Code, Sections 28.0295, 61.003, 61.059, 130.003, 130.0031, 130.0034, 130.008, 130.085, 130.310, 130.352 and Chapter 130A.

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

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CHAPTER 21. STUDENT SERVICES SUBCHAPTER O. PROVISIONS REGARDING SCHOLARSHIPS TO RELATIVES OF BOARD MEMBERS OF INSTITUTIONS OF HIGHER EDUCATION AND UNIVERSITY SYSTEMS

19 TAC §§21.468 - 21.474

The Texas Higher Education Coordinating Board (Coordinating Board) adopts repeal of Title 19, Part 1, Chapter 21, Subchapter O, §§21.468 - 21.474, Provisions Regarding Scholarships to

Relatives of Board Members of Institutions of Higher Education and University Systems, without changes to the proposed text as published in the February 7, 2025, issue of the *Texas Register* (50 TexReg 724). The rules will not be republished.

This repeal allows the relocation of this subchapter to a more appropriate location in Coordinating Board rules. The Coordinating Board is authorized by Texas Education Code, §51.969, to adopt rules relating to the provisions of that section.

No comments were received regarding the adoption of the repeal.

The repeal is adopted under Texas Education Code, Section 51.969, which provides the Coordinating Board with the authority to adopt rules relating to the provisions of that section.

The adopted repeal affects Texas Administrative Code, Title 19, Part 1, Chapter 21.

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

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CHAPTER 22. STUDENT FINANCIAL AID PROGRAMS

SUBCHAPTER A. GENERAL PROVISIONS

19 TAC §§22.1, 22.2, 22.4, 22.7 - 22.11

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments and new rules in Title 19, Part 1, Chapter 22, Subchapter A, General Provisions, §§22.1 and §22.9, with changes to the proposed text as published in the February 28, 2025, issue of the *Texas Register* (50 TexReg 1071). The rules will be republished. Sections 22.2, 22.4, and 22.7, 22.8, 22.10, and 22.11, are adopted without changes and will not be republished.

The amendments and new sections update terminology and definitions used throughout the chapter, restructure rules within the subchapter for greater clarity, and provide greater detail in how and to which programs the general provisions should be applied.

The Coordinating Board is authorized to adopt rules to effectuate the provisions of Texas Education Code (TEC), Chapter 61, including §61.051(a)(5) regarding the administration of financial aid programs.

Included throughout the subchapter are a number of nonsubstantive updates to rule language. References to the Coordinating Board as an agency, for example, previously written as "Board" or "Board staff," are revised to "Coordinating Board" to ensure the distinction is clear between the agency and its governing board. Similarly, the word "award" is changed to refer more precisely to a particular kind(s) of financial assistance.

Rule 22.1, Definitions, is amended by adding and removing several definitions, as well as amending definitions to more closely align with other defined terms. Several of the additions are commonly used terms throughout the chapter that have statutory definitions in TEC, §61.003. These terms have been consolidated into the General Provisions to ensure consistent usage and avoid citation issues that might arise from changes to TEC, §61.003. The term "forecast" was defined in multiple subchapters with slightly different definitions (though no practical difference); these definitions are consolidated in §22.1 with no change in function. Finally, to align more closely with changes to the federal financial aid process, the term "Student Aid Index" is added and will be used extensively throughout the chapter as a replacement for "Expected Family Contribution." Multiple definitions are removed as they are no longer needed or are being replaced with more precise terms.

Rule 22.2, Timely Distribution of Funds, is amended by adding provisions related to re-offering of funds and late disbursements of gift aid. New subsection (b) is the reconstituted §22.11(f), amended to clarify that it is applicable to all financial adjustments, not only grants. New subsection (c) is the reconstituted §22.11(g), amended to clarify that it applies to all gift aid. These adjustments do not represent a change in Coordinating Board practices or expectations.

Rule 22.4, Records Retention, is amended by eliminating subsection (a), which is simply an unnecessary directive to institutions to follow the rules within the section and making conforming formatting changes.

Rule 22.7, Financial Aid Uses, is added to specify the appropriate uses for state financial aid programs. This section is the reconstituted §22.11(c), amended slightly to make it more broadly applicable (to all financial aid, rather than simply grants or work-study). This does not represent a change in Coordinating Board practices or expectations.

Rule 22.8, Financial Aid Adjustments, is added to provide guidance to institutions in managing various financial aid adjustments. The bulk of the language is reconstituted from §22.11(d) and (e), with a few notable changes. First, provisions related to adjustments resulting from a student withdrawing from his/her institution are separated to offer more specific guidance in the case of gift aid versus loans. Subsection (b), related to over awards, frames the concept as a type of financial aid adjustment, rather than a separate concept as it has been previously. Finally, the new rule provides greater specificity regarding adjustments to financial aid resulting from a student becoming ineligible for particular financial aid programs after already receiving financial assistance from them. Subsection (d) provides general guidance in any other cases not addressed by the rest of the rule.

Rule 22.9, Institutional Responsibilities, is amended to align with the Coordinating Board's compliance monitoring role in TEC, §61.035, and the current practice between the Coordinating Board and the institutions as reflected in the program participation agreements, and furthermore to clarify the institutions' specific obligations with respect to allocated program funds.

Rule 22.10, Grade Point Average Calculations for Satisfactory Academic Progress, is amended to clarify that institutions have the discretion to include grades from prior institutions in determining whether a student's grade point average satisfies satis-

factory academic progress requirements and may use the higher of the calculations.

Rule 22.11, Authority to Transfer Funds, is amended first by eliminating the specific program references in the title and narrowing the subject of the rule to focus only on the authority to transfer funds. Subsection (a) is eliminated entirely and not moved elsewhere in the chapter, as it merely restates statute. Subsection (b)(1), which implements a legislative rider, is retained with minor edits and the addition of the specific July 1 deadline. Subsection (b)(2) is eliminated as the allocations for the Texas College Work-Study Program and Work-Study Student Mentorship Programs have been combined. Subsections (c) - (g) are removed but the substance of these provisions has been relocated elsewhere in this subchapter, as described above.

Subsequent to the posting of the rules in the *Texas Register*, the following changes are incorporated into the adopted rule.

Section 22.1 definitions for "Expected Family Contribution" and "Student Aid Index" are switched in form to reflect that Student Aid Index is the more commonly used term in financial aid administration.

Section 22.9(d) is amended to reflect the potential roles of the Board, Commissioner, and Internal Auditor with respect to this function, to more closely align with the applicable statute and audit-related rules and procedures.

The following comments were received regarding the adoption of the new rules and amendments.

Comment: South Texas College commented to note that the term "Expected Family Contribution," defined in §22.1, is outdated and has been changed to Student Aid Index under the federal FAFSA Simplification Act.

Response: The Coordinating Board appreciates the comment. The commenter is correct that the term Expected Family Contribution has been phased out at the federal level in favor of Student Aid Index. However, the term Expected Family Contribution still exists in the Texas Education Code across multiple financial aid programs. As such, definitions for both Expected Family Contribution and Student Aid Index are necessary to align these terms. To provide greater clarity, the definitions will be updated so that Student Aid Index refers to a measure utilized to calculate a student's financial need as regulated and defined by the methodology used for federal student financial aid and Expected Family Contribution refers to a student's Student aid Index.

The amendments and new sections are adopted under Texas Education Code, Section 61.051(a)(5), which provides the Coordinating Board with the authority to administer state financial aid programs.

The adopted amendments and new sections affect Texas Administrative Code, Title 19, Part 1, Chapter 22.

§22.1. Definitions.

The following words and terms, when used in chapter 22, shall have the following meanings, unless otherwise defined in a particular subchapter:

(1) Academic Year--The combination of semesters defined by a public or private institution of higher education to fulfill the federal "academic year" requirement as defined by 34 CFR 668.3.

(2) Attempted Semester Credit Hours--Every course in every semester for which a student has been registered as of the official

Census Date, including but not limited to, repeated courses and courses the student drops and from which the student withdraws. For transfer students, transfer hours and hours for optional internship and cooperative education courses are included if they are accepted by the receiving institution towards the student's current program of study.

(3) Board--The governing body of the agency known as the Texas Higher Education Coordinating Board.

(4) Categorical Aid--Gift aid that the institution does not award to the student, but that the student brings to the school from a non-governmental third party.

(5) Commissioner--The Texas Commissioner of Higher Education.

(6) Coordinating Board--The agency known as the Texas Higher Education Coordinating Board, including agency staff.

(7) Cost of Attendance/Total Cost of Attendance--An institution's estimate of the expenses incurred by a typical financial aid recipient in attending a particular institution of higher education. It includes direct educational costs (tuition and fees) as well as indirect costs (room and board, books and supplies, transportation, personal expenses, and other allowable costs for financial aid purposes).

(8) Credit--College credit earned through the successful completion of a college career and technical education or academic course that fulfills specific requirements necessary to obtain an industry-recognized credential, certificate, associate degree, or other academic degree.

(9) Degree or Certificate Program of Four Years or Less--A baccalaureate degree, associate degree, or certificate program other than a program determined by the Coordinating Board to require four years or more to complete.

(10) Degree or Certificate Program of More Than Four Years--A baccalaureate degree or certificate program determined by the Coordinating Board to require more than four years to complete.

(11) Encumber--Program funds that have been officially requested by an institution through procedures developed by the Coordinating Board.

(12) Equivalent of a Semester Credit Hour--A unit of measurement for a continuing education course, determined as a ratio of one continuing education unit to ten contact hours of instruction, which may be expressed as a decimal. For the purpose of conversion, 1.6 continuing education units of instruction equals one semester credit hour of instruction. In a continuing education course, not fewer than sixteen contact hours are equivalent to one semester credit hour.

(13) Expected Family Contribution (EFC)--A student's Student Aid Index, as the term is defined in this section.

(14) Financial Need--The Cost of Attendance at a particular institution of higher education or private or independent institution of higher education less the Student Aid Index as those terms are defined in this section.

(15) Forecast--The FORECAST function in Microsoft Excel, or a comparable forecasting function.

(16) Full-Time--For undergraduate students, enrollment or expected enrollment for the equivalent of twelve or more semester credit hours per semester. For graduate students, enrollment or expected enrollment for the normal full-time course load of the student's program of study as defined by the institution.

(17) General Academic Teaching Institution--As defined in Texas Education Code, §61.003.

(18) Gift Aid--Grants, scholarships, exemptions, waivers, and other financial aid provided to a student without a requirement to repay the funding or earn the funding through work.

(19) Graduate Student--A student who has been awarded a baccalaureate degree and is enrolled in coursework leading to a graduate or professional degree.

(20) Half-Time--For undergraduates, enrollment or expected enrollment for the equivalent of at least six but fewer than nine semester credit hours per regular semester. For graduate students, enrollment or expected enrollment for the equivalent of 50 percent of the normal full-time course load of the student's program of study as defined by the institution.

(21) Institution of Higher Education--As defined by Texas Education Code, §61.003.

(22) Medical or Dental Unit--As defined by Texas Education Code, §61.003.

(23) Period of Enrollment--The semester or semesters within the current state fiscal year (September 1 - August 31) for which the student was enrolled in an approved institution and met all eligibility requirements for financial assistance offered under this chapter.

(24) Private or Independent Institution of Higher Education--As defined by Texas Education Code, §61.003.

(25) Program Officer--The individual named by each participating institution's chief executive officer to serve as agent for the Coordinating Board. The Program Officer has primary responsibility for all ministerial acts required by the program, including the determination of student eligibility, selection of recipients, maintenance of all records, and preparation and submission of reports reflecting program transactions. Unless otherwise indicated by the institution's chief executive officer, the director of student financial aid shall serve as Program Officer.

(26) Public Junior College--As defined by Texas Education Code, §61.003.

(27) Public State College--As defined by Texas Education Code, §61.003.

(28) Public Technical Institute--As defined by Texas Education Code, §61.003.

(29) Resident of Texas--A resident of the State of Texas as determined in accordance with chapter 21, subchapter B, of this title (relating to Determination of Resident Status). Nonresident students who are eligible to pay resident tuition rates are not residents of Texas.

(30) Semester--A payment period, as defined by 34 CFR 668.4(a) or 34 CFR 668.4(b)(1).

(31) Semester Credit Hour--A unit of measure of instruction, represented in intended learning outcomes and verified by evidence of student achievement, that reasonably approximates one hour of classroom instruction or direct faculty instruction and a minimum of two hours out of class student work for each week over a 15-week period in a semester system or the equivalent amount of work over a different amount of time. An institution is responsible for determining the appropriate number of semester credit hours awarded for its programs in accordance with Federal definitions, requirements of the institution's accreditor, and commonly accepted practices in higher education.

(32) Student Aid Index (SAI)--A measure utilized to calculate a student's financial need as regulated and defined by the methodology used for federal student financial aid.

(33) Three-Quarter-Time--For undergraduate students, enrollment or expected enrollment for the equivalent of at least nine but fewer than twelve semester credit hours per semester. For graduate students, enrollment or expected enrollment for the equivalent of 75 percent of the normal full-time course load of the student's program of study as defined by the institution.

(34) Undergraduate Student--An individual who has not yet received a baccalaureate degree.

§22.9. Institutional Responsibilities.

(a) Probation Notice. If the institution is placed on probation by its accrediting agency, the institution shall immediately notify the Coordinating Board and advise state financial aid recipients of this condition and maintain evidence to demonstrate that state financial aid program recipients were so informed.

(b) Disbursements to Students.

(1) Documentation. Each institution shall maintain records to prove the crediting of state financial aid program funds to the student's school account.

(2) Procedures in Case of Unauthorized Disbursements. If an institution receives an audit or compliance monitoring finding or otherwise determines that the institution has disbursed state financial aid program funds for unauthorized purposes, whether over-allocated, misused, or misallocated, the Program Officer shall notify the Coordinating Board within five business days.

(3) If the Commissioner determines that the institution has made an unauthorized disbursement, the Commissioner will notify the Program Officer of this determination in writing.

(4) The Commissioner may demand, in writing, that the institution return the funds to the Coordinating Board. The institution may comply with this demand and return the funds to the Coordinating Board within thirty calendar days of receipt, unless the Commissioner specifically permits a later deadline. If the institution elects not to comply with this demand, the Coordinating Board may utilize additional tools of recovery, as permitted by law, including any means of recovery authorized by Texas Education Code, §61.035.

(5) In addition, the Commissioner may subject the institution to compliance monitoring.

(6) The Coordinating Board shall not disburse further funds from the program in question to the institution until the funds have been repaid.

(c) Reporting Requirements/Deadlines. Each institution shall submit such reports and information as the Coordinating Board may require in connection with the administration or evaluation of the state financial aid programs. These materials must be submitted within the time allotted by the Coordinating Board for each such report or information request. The Program Officer shall ensure that all reports and information provided to the Coordinating Board properly reflect the facts and certify that those reports may be relied upon as being complete and accurate.

(d) Compliance Monitoring. If selected for such by the Board, Commissioner, or Internal Auditor, a participating institution shall submit to reviews of activities related to state financial aid programs.

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

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**SUBCHAPTER B. TUITION EQUALIZATION
GRANT PROGRAM**

19 TAC §§22.22 - 22.30

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments to Title 19, Part 1, Chapter 22, Subchapter B, §22.24, Tuition Equalization Grant Program, with changes to the proposed text as published in the February 7, 2025, issue of the *Texas Register* (50 TexReg 725). The rules will be republished. Sections 22.22, 22.23, and 22.25 - 22.30 are adopted without changes and will not be republished.

This amendment aligns rule language and terminology with usage throughout Chapter 22, clarifies potential ambiguities in rules, and improves the overall readability of the subchapter.

The Coordinating Board is authorized to adopt rules related to the Tuition Equalization Grant (TEG) Program by Texas Education Code (TEC), §61.229.

The subchapter is retitled to conform with naming conventions throughout Chapter 22.

Included throughout the subchapter are a number of nonsubstantive updates to rule language. References to the Coordinating Board as an agency, for example, previously written as "Board" or "Board staff," are revised to "Coordinating Board" to ensure the distinction is clear between the agency and its governing board. Similarly, the word "award" is changed to the more precise "grant" as a noun and "offer" as a verb, to avoid potential confusion.

References to theological seminaries and religious degree programs have been removed in alignment with legal determinations stemming from recent federal court decisions.

Rule 22.22, Definitions, is amended to eliminate definitions that either are duplicative or unnecessary. The terms "forecast" and "private or independent institution of higher education" have been moved to the chapter's General Provisions and therefore are redundant in this subchapter. "Program maximum" is unchanged conceptually but moved to §22.28(a) to align with the rule structure and flow of other programs in this chapter.

Rule 22.23, Eligible Institutions, is amended to enhance readability through more specific citations to other rules and to clarify potential ambiguities. Paragraph (a)(5) is amended to clarify that the Commissioner of Higher Education makes determinations regarding temporary approvals for alternatively accredited institutions and that renewals of that approval may be renewed twice for two years each time, for maximum of six years of temporary approval possible. This does not reflect a change in Coordinating Board practices.

Rule 22.24, Eligible Students, is amended to align eligibility criteria more closely with defined terms and the rules of other pro-

grams in this chapter. Paragraph (a)(8) is added to align the rule with current practice regarding the Selective Service requirement for program eligibility. Paragraph (b)(2) is amended to specify which year's Pell Grant eligibility cap is used to establish eligibility for exceptional TEG need and to eliminate a potentially confusing reference to the Financial Aid Database. None of the amendments to this section reflect a change in the eligibility for the Tuition Equalization Grant.

Rule 22.25, Satisfactory Academic Progress, is amended to make clarifying changes to the rule language and citations. Subparagraph (b)(1)(A) is simplified by eliminating confusing and unnecessary language regarding satisfactory academic progress requirements following the student's second year in the TEG program.

Rule 22.26, Discontinuation of Eligibility or Non-Eligibility, is amended by making clarifying changes to the time-based discontinuation of eligibility provisions. The current rule language is ambiguous as to what constitutes the "anniversary" from which the five/six-year eligibility is measured. This language is amended to align both with Coordinating Board practice and with rule language in other programs in this chapter. There is no change in policy as a result of this amendment.

Rule 22.27, Hardship Provisions, is amended to conform the hardship provisions with the rule language throughout the chapter.

Rule 22.28, Grant Amounts, is amended by adding the "program maximum" concept that previously was contained in the term's definition in §22.22. There is no change in Coordinating Board policy or practice as a result of this amendment. The section is retitled to more closely align with naming conventions throughout the chapter, as well as the fact that no provisions in the section currently relate to grant adjustments.

Rule 22.29, Allocation of Funds, is amended to make non-substantive language improvements only. Allocation "base" is changed to "share" in paragraph (a)(2) to reflect that no alterations are made to the figure. There is no change to the allocation methodology as a result of these amendments.

Rule 22.30, Disbursement of Funds, is amended by making non-substantive language improvements and by adding a citation to relevant rules in the chapter's General Provisions.

Subsequent to the posting of the rules in the *Texas Register*, the following changes were incorporated into the adopted rule.

Rule §22.24(a)(5) is amended to remove a reference to degree plans that are intended to lead to religious ministry. The reference should have been proposed for repeal along with other such references in the subchapter but was inadvertently left in place.

No comments were received regarding the adoption of the amendments.

The amendment is adopted under Texas Education Code, Section 61.229, which provides the Coordinating Board with the authority to adopt rules related to the Tuition Equalization Grant Program.

The adopted amendments affect Texas Administrative Code, Title 19, Part 1, Chapter 22.

§22.24. *Eligible Students.*

(a) To receive a grant through the TEG Program, a student must:

- (1) be enrolled at least three-quarter-time;
 - (2) show financial need, as defined by §22.1 of this chapter (relating to Definitions);
 - (3) maintain satisfactory academic progress in his or her program of study as determined by the institution at which the person is enrolled and as required by §22.25 of this subchapter (relating to Satisfactory Academic Progress);
 - (4) be a resident of Texas, as defined in §22.1 of this chapter;
 - (5) be enrolled in a participating institution in an individual degree plan leading to the student's first associate degree, first baccalaureate degree, first master's degree, first professional degree, or first doctoral degree;
 - (6) be required to pay more tuition than is required at a comparable public college or university and be charged no less than the tuition required of all similarly situated students at the institution;
 - (7) not concurrently receive any form of athletic scholarship; and
 - (8) meet applicable standards outlined in §22.3 of this chapter (relating to Student Compliance with Selective Service Registration).
- (b) To demonstrate eligibility for exceptional TEG need, a student must:
- (1) be an undergraduate student; and
 - (2) have a Student Aid Index less than or equal to fifty percent of the Federal Pell Grant eligibility cap for the academic year in which the grant is offered.

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

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SUBCHAPTER L. TOWARD EXCELLENCE, ACCESS, AND SUCCESS (TEXAS) GRANT PROGRAM

19 TAC §§22.226 - 22.231, 22.233, 22.234, 22.236, 22.238, 22.241

The Texas Higher Education Coordinating Board (Coordinating Board) adopts new rules and amendments to Title 19, Part 1, Chapter 22, Subchapter L, §22.226, Toward EXcellence, Access, and Success (TEXAS) Grant Program, with changes to the proposed text as published in the February 7, 2025, issue of the *Texas Register* (50 TexReg 729). The rule will be republished. Sections 22.227 - 22.231, 22.233, 22.234, 22.236, 22.238, and 22.241, are adopted without changes and will not be republished.

The amendments and new section aligns rule language and terminology with rules throughout the chapter, resolve potential ambiguities in rule language, and improve the overall readability of the subchapter.

The Coordinating Board is authorized to adopt rules related to the TEXAS Grant Program by Texas Education Code, §56.303.

Included throughout the subchapter are a number of nonsubstantive updates to rule language. References to the Coordinating Board as an agency, for example, previously written as "Board" or "Board staff," are revised to "Coordinating Board" to ensure the distinction is clear between the agency and its governing board. Similarly, the word "award" is changed to the more precise "grant" as a noun and "offer" as a verb, to avoid potential confusion.

Rule 22.226, Definitions, is amended by eliminating several duplicative or unnecessary definitions and aligning remaining ones with defined terms in the General Provisions of the chapter. The terms defined in current paragraphs (2), (3), (6), (8), and (13) all are defined in (or are proposed to be defined in) rule 22.1 in the chapter's General Provisions. "Encumbered funds" is unused in the subchapter and accordingly, is eliminated, as "encumber" is already defined in the chapter's General Provisions. The terms "public institution" and "private institution" are eliminated for rule clarity, owing to their proximity to defined terms "institution of higher education" and "private or independent institution of higher education."

Rule 22.227, Eligible Institutions, is amended by eliminating (in paragraph (a)(1)) unnecessary provisions related to the phase out of TEXAS grants offered by two-year institutions of higher education and aligning rule language to defined terms.

Rule 22.228, Eligible Students, is amended to align the rule language with defined terms and clarify a few eligibility criteria. The Coordinating Board's interpretation of the requirement to "have applied for any available financial aid assistance" (paragraph (a)(3)) in this and other programs is for the student to have completed the Free Application for Federal Student Aid or, as needed, the Texas Application for State Financial Aid. The amendments to the rule improve the clarity of the rule and align with current practice. Similarly, the amendments specify that paragraph (a)(5) refers to the Selective Service requirement. Subparagraphs (a)(6)(C) and (a)(6)(D) are clarified by removing the word "continuing" before "undergraduate student." In the context of the rule, it appeared that "continuing" was intended to contrast with "entering undergraduate" in subparagraphs (a)(6)(A) and (a)(6)(B), when in fact, the word does not have a specific meaning. For clarity's sake, then, it is removed. Finally, current paragraph (b)(7) is changed to subsection (c) to establish that it is conceptually different from the continuation grant eligibility criteria listed in subsection (b).

Rule 22.229, Satisfactory Academic Progress, is amended by updating rule language to use defined terms and more specific citations to other rules in the chapter and subchapter.

Rule 22.230, Discontinuation of Eligibility or Non-Eligibility, is amended by adding subsection (a), a restriction on a TEXAS Grant recipient concurrently receiving a Texas Educational Opportunity Grant or Texas Transfer Grant. This restriction aligns with current practice. Rule language in paragraphs (e)(1) and (e)(2) regarding time-related discontinuation of eligibility in certain circumstances is updated to align with the more specific language in subsection (d).

Rule 22.231, Hardship Provisions, is amended to align the subchapter's hardship provisions with those of other programs in its chapter. The provision related to completion rate in paragraph (a)(3) is eliminated as it is no longer relevant to the program.

Rule 22.233, Priority in Grants to Students, is amended to replace the term "expected family contribution" with the newer, "Student Aid Index" (no change in meaning) and to correct a citation.

Rule 22.234, Grant Amounts, is amended by rephrasing subsection (d) for improved readability. The amendments do not represent a change in policy.

Rule 22.236, Allocation and Disbursement of Funds, is amended by aligning rule language with defined terms, making nonsubstantive clarifying edits, and separating provisions relating to disbursement of funds to a separate section. The section is retitled accordingly. Subparagraph (a)(1)(B) is corrected by eliminating the word "entering" before "undergraduate transfer student." The term "entering undergraduate" is defined in §22.226 of the subchapter but used inadvertently here simply to mean "undergraduate transfer student entering an institution." This amendment does not reflect a change in allocation methodology. Paragraph (a)(2) is eliminated, as it relates to the phase out of TEXAS grants offered by two-year institutions of higher education. Finally, subsection (d) is removed and reconstituted as §22.238. There are no changes to the allocation methodology as a result of any amendment to this rule.

Rule 22.238, Disbursement of Funds, is added as the reconstituted §22.236(b), with no changes other than an added citation to a relevant rule in the chapter's General Provisions.

Rule 22.241, Tolling of Eligibility for Initial Year Grant, is amended by aligning language to defined terms and updating citations to other rules in the subchapter.

Subsequent to the posting of the rules in the *Texas Register*, the following changes are incorporated into the adopted rules.

Rule 22.226(6), Definitions, is amended to correct grammatical errors.

No comments were received regarding the adoption of the new rule and amendments.

The amendments and new section are adopted under Texas Education Code, Section 56.303, which provides the Coordinating Board with the authority to adopt rules related to the Toward Excellence, Success, and Access (TEXAS) Grant Program.

The adopted amendments and new section affect Texas Administrative Code, Title 19, Part 1, Chapter 22.

§22.226. *Definitions.*

In addition to the words and terms defined in §22.1 of this chapter (relating to Definitions), the following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

- (1) Continuation Grant--A TEXAS Grant offered to a person who has previously received an initial year grant.
- (2) Entering Undergraduate--A student enrolled in the first thirty semester credit hours or their equivalent, excluding hours taken during dual enrollment in high school and courses for which the student received credit through examination.
- (3) Initial Year Grant--The TEXAS Grant offered in the student's first year in the TEXAS Grant Program.

(4) Prior-Prior Year--For allocation purposes, the state fiscal year that began two years earlier than the fiscal year for which the allocation is being calculated.

(5) Program--The Toward EXcellence, Access and Success (TEXAS) Grant program.

(6) Required Fees--A mandatory fee (required by statute) or discretionary fee (authorized by statute, imposed by the governing board of an institution of higher education) and that an institution of higher education charges to a student as a condition of enrollment at the institution of higher education or in a specific course.

(7) Target Grant Amount--An amount set by the Coordinating Board, in consultation with institutions of higher education participating in the TEXAS Grant Program, and used as the recommended average grant amount for the TEXAS Grant Program for a biennium and in establishing renewal year allocations to participating institutions of higher education as described in §22.236(a)(1) of this chapter (relating to Allocation and Reallocation of Funds).

(8) Tuition--Statutory tuition, designated and/or Board-authorized tuition, as defined in §13.142 of this title (related to Definitions).

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

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SUBCHAPTER M. TEXAS EDUCATIONAL OPPORTUNITY GRANT PROGRAM

19 TAC §§22.254 - 22.262, 22.264, 22.265

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments to, Title 19, Part 1, Chapter 22, Subchapter M, §§22.254 - 22.262, 22.264, and 22.265, Texas Educational Opportunity Grant Program, without changes to the proposed text as published in the February 7, 2025, issue of the *Texas Register* (50 TexReg 735). The rules will not be republished.

This amendment aligns rule language and terminology with other programs in the chapter and clarifies potential ambiguities in the rules.

The Coordinating Board is authorized to adopt rules relating to the Texas Educational Opportunity Grant (TEOG) Program by Texas Education Code, §56.403.

Included throughout the subchapter are a number of nonsubstantive updates to rule language. References to the Coordinating Board as an agency, for example, previously written as "Board" or "Board staff," are revised to "Coordinating Board" to ensure the distinction is clear between the agency and its governing board. Similarly, the word "award" is changed to the more

precise "grant" as a noun and "offer" as a verb, to avoid potential confusion.

Rule 22.254, Definitions, is amended by eliminating the term "forecast," which is being added to §22.1 in the chapter's General Provisions, and by making nonsubstantive changes to existing definitions to align with terminology and usage throughout the chapter.

Rule 22.255, Eligible Institutions, is amended to make nonsubstantive changes related to citations to other rules in the chapter and to clarify references to the TEOG program by capitalizing the word Program as appropriate.

Rule 22.256, Eligible Students, is amended by aligning rule language with defined terms and clarifying subsection (a)(3). The Coordinating Board's interpretation of the requirement to "have applied for any available financial aid assistance" in this and other programs is for the student to have completed the Free Application for Federal Student Aid or, as needed, the Texas Application for State Financial Aid. The amendments to the rule improve the clarity of the rule and align with current practice. Also added is subsection (a)(6), which relates to the Selective Service eligibility requirement. This, too, is current practice but was inadvertently excluded from the rule. None of these amendments reflect a change in eligibility criteria for the program.

Rule 22.257, Satisfactory Academic Progress, is amended by aligning rule language with defined terms, making nonsubstantive clarifying edits, and updating subsection (c) with a more specific citation.

Rule 22.258, Discontinuation of Eligibility or Non-Eligibility, is amended to align rule language with defined terms and specify references to the TEOG program via capitalization.

Rule 22.259, Hardship Provisions, is amended to align hardship provisions for the program with other programs in the chapter.

Rule 22.260, Priorities in Grants to Students, is amended to align rule language with defined terms, replace "expected family contribution" with the newer term, "Student Aid Index" (no change in meaning), and specify references to the TEOG program via capitalization.

Rule 22.261, Grant Amounts, is amended by eliminating the unnecessary subsection (a) -- no rule is required to establish the Coordinating Board's statutory spending limit for the program -- restructuring the rule for improved readability by moving current subsection (b)(1) to become the new subsection (b), and clarifying that the reduction in excess charges described by subsection (c)(2) is considered an exemption, rather than a waiver. There is no change to the overall function of the rule.

Rules 22.262, Allocation of Funds - Public Junior Colleges, and 22.264, Allocation of Funds - Public Technical and State Colleges, are amended to align rule language with defined terms and provide greater detail into the existing allocation methodologies for public junior colleges, and public state colleges and technical institutes, respectively. In both rules, subsection (a)(1)(B) is amended with added language regarding the weighting of half-time, three-quarter time, and full-time students in the allocation formula. This weighting already occurs but had not been stated explicitly in the rule text. It has been added for greater transparency. None of the amendments to either rule should be interpreted as changing the allocation methodologies for this program.

Rule 22.265, Disbursement of Funds to Institutions, is amended by adding a citation to a relevant rule in the chapter's General Provisions.

No comments were received regarding the adoption of the amendments.

The amendment is adopted under Texas Education Code, Section 56.403, which provides the Coordinating Board with the authority to adopt rules related to the Texas Educational Opportunity Grant program.

The adopted amendment affects Texas Administrative Code, Title 19, Part 1, Chapter 22.

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

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PART 7. STATE BOARD FOR EDUCATOR CERTIFICATION

CHAPTER 231. REQUIREMENTS FOR PUBLIC SCHOOL PERSONNEL ASSIGNMENTS SUBCHAPTER F. SPECIAL EDUCATION-RELATED SERVICES PERSONNEL ASSIGNMENTS

The State Board for Educator Certification (SBEC) adopts the repeal of §231.701, new §231.701 and §231.710, and amendment to §231.709, concerning special education-related services personnel assignments. The repeal of §231.701, new §231.701, and the amendment to §231.709 are adopted without changes to the proposed text as published in the January 10, 2025 issue of the *Texas Register* (50 TexReg 236) and will not be republished. New §231.710 is adopted with changes to the proposed text as published in the January 10, 2025 issue of the *Texas Register* (50 TexReg 236) and will be republished. The adopted revisions provide requirements for school districts to make personnel assignment decisions based on the correlating certification and demonstration of content proficiency requirements. The adopted revisions also expand the list of certificates appropriate for personnel serving in special education-related assignments and include a section dedicated to requirements for an assignment of Teachers of Students who are Deafblind.

REASONED JUSTIFICATION: The SBEC rules in 19 Texas Administrative Code (TAC) Chapter 231 establish the personnel assignments that correlate with appropriate certifications. The list of courses, organized by grade level and subject area, identify the corresponding certificates and requirements for placement of individuals into classroom and/or campus assignments. This in-

formation assists districts with hiring and personnel assignment decisions.

The adopted revisions to 19 TAC Chapter 231, Subchapter F, Special Education-Related Personnel Assignments, address requirements for placement into special education-related personnel assignments. These adopted revisions, as a part of the broader special education teacher certification redesign plan, ensure that special education teachers are knowledgeable of the grade-level content in which they teach, while allowing flexibility in how this content knowledge is demonstrated.

During the December 2024 meeting, the SBEC approved the proposed revisions to 19 TAC Chapter 231, Subchapter F, Special Education-Related Personnel Assignments, and the Texas Content Competency Worksheet for Special Education Teachers of Record (Grades EC-12).

Previous SBEC Discussion

A summary of previous SBEC discussion is outlined in the following table.

Figure: 19 TAC Chapter 231, Subchapter F - Preamble

Adopted Updates to Subchapter F, Special Education-Related Services Personnel Assignments:

The following is a description of the adopted revisions to 19 TAC Chapter 231, Subchapter F.

Adopted New 19 TAC §231.701. Special Education Teacher:

The adopted repeal of and new 19 TAC §231.701, Special Education Teacher, clearly articulates requirements for placement into special education assignments at the elementary and secondary levels.

Adopted new 19 TAC §231.701(a) specifies the effective date of provisions in this revised section.

Adopted new 19 TAC §231.701(b) specifies the required SBEC-issued special education certificate needed to serve in an assignment of special education teacher.

Adopted new 19 TAC §231.701(c) clarifies that the certificates listed in subsection (a) are appropriate for Prekindergarten-Grade 12 unless additional requirements are noted elsewhere.

Adopted new 19 TAC §231.701(d) specifies content area competency requirements for teachers in an assignment of special educator serving as the teacher of record. These adopted rules require special education teachers of record to hold a valid content area certificate that matches the subject and grade level of the assignment or meet all requirements as outlined in the Texas Content Area Competency Worksheet for Special Education Teachers of Record adopted in rule as Figure: 19 TAC §231.701(d).

In response to public comment, changes were made to Figure: 19 TAC §231.701(d) at adoption that include allowing the additional criteria of holding a content-aligned National Board Certification, holding a Teacher Incentive Allotment designation, and completing relevant professional development within the last five years as qualifying factors for demonstration of content knowledge. Additional flexibility was added for secondary teachers of record for multiple content areas.

Adopted new 19 TAC §231.701(e) specifies that the employing school district is responsible for ensuring educators are trained to meet the needs of their assignment.

Adopted Amendment to 19 TAC §231.709. Teacher of Students with Auditory Impairments

The adopted section title aligns with certificate naming conventions and more accurate terminology used in the field.

The adopted amendment to 19 TAC §231.709(a)-(c) strikes "Teacher of Students with Auditory Impairments" and replaces it with "Teacher of the Deaf and Hard of Hearing" to align with the new section title and more appropriate terminology used in the field.

Adopted New 19 TAC §231.710. Teacher of Students who are Deafblind

Adopted new 19 TAC §231.710, Teachers of Students who are Deafblind, specifies the Deafblind Supplemental: Early Childhood-Grade 12 certificate as the appropriate credential for placement into this teaching assignment.

Adopted new 19 TAC §231.710(a) specifies the certification requirement for an assignment of Teachers of Students who are Deafblind.

Adopted new §231.710(b) provides a list of additional certificates a teacher of students who are Deafblind might hold.

SUMMARY OF COMMENTS AND RESPONSES: The public comment period on the proposal began January 10, 2025, and ended February 10, 2025. The SBEC also provided an opportunity for registered oral and written comments on the proposal at the February 14, 2025 meeting's public comment period in accordance with the SBEC board operating policies and procedures. The following public comments were received on the proposal.

Comment: The Texas Classroom Teachers Association supported the clarification in the rule that allows certain special education teachers to be grandfathered from the new requirements for demonstrating content competency if their campus administrator indicates that they have met the HOUSSE (High Objective Uniform State Standard of Evaluation) requirements.

Response: The SBEC agrees. The proposed rule text ensures special education teachers who previously met HOUSSE requirements can continue to serve in their placements with no disruption, pending administrator attestation in Section B of the Texas Core Content Competency Worksheet for Special Education Teachers of Record.

Comment: One teacher requested that a certification track for special educators who teach alternate curriculum in life skills, autism, or functional academics classes be developed to provide opportunities for teachers who would no longer be eligible to teach in these areas under the proposed rules.

Response: The SBEC disagrees. While it is under the SBEC's authority to explore new certification options for teachers, the rules ensure those teachers who previously met HOUSSE can continue to serve in their placement and provide flexible options for teachers who did not previously meet HOUSSE requirements to demonstrate their content competency.

Comment: One administrator suggests that continuing the option for secondary special education teachers who are the teacher of record for all four core subject areas for secondary students assessed on alternative achievement standards and who provide instruction exclusively at the elementary level to have the appropriate special education certification plus elementary certification would be very helpful.

Response: The SBEC disagrees. Federal requirements state that all students, including those with the most significant cognitive disabilities assessed on alternate achievement standards, should have access to general education curriculum for the grade level in which the students are enrolled. The proposed rules continue to require the appropriate special education certification, and the Texas Core Content Competency Worksheet for Special Education Teachers of Record provides flexible options for all special education teachers of record, including those at the secondary level responsible for all four core content areas, to demonstrate their content competency.

Comment: One administrator supported the proposed revisions to §231.701, Special Education Teacher, and stated that they are essential to updating HOUSSE regulations.

Response: The SBEC agrees. The Texas Core Content Competency Worksheet for Special Education Teachers of Record provides an alternate pathway for special education teachers of record to demonstrate their content proficiency if they do not hold the aligned content certification.

Comment: One school psychologist commented with concerns and recommended a reconsideration of the proposal as it relates to certifying educators who provide psychological services.

Response: The public comment is outside the scope of the proposed rulemaking, as school psychologist requirements are included in 19 TAC Chapter 231, Subchapter G, Paraprofessional Personnel, Administrators, and Other Instructional and Professional Support Assignments.

Comment: One Texas administrator expressed concern that increasing certification requirements for special education teachers will increase the difficulty in recruiting new teachers to the field as well as keeping those already in the field. The commenter also stated that the proposed change might increase the expectations of special education teachers, which could be a detriment to recruitment.

Response: The SBEC disagrees. The rules would not increase certification requirements. Instead, the rules specify that all special education teachers need a special education certification, and special education teachers serving as teacher of record need to demonstrate content competency, either through content certification or by meeting requirements outlined in the Texas Content Competency Worksheet for Special Education Teachers of Record.

Comment: One individual commented that the proposed changes requiring 24 points across all content areas with no areas having less than three points will present undue obstacles for teachers who do not have access to some of the options. The commenter suggested a requirement of 24 points that can be achieved in any way possible given the activities listed on the proposal, without the stipulation of having less than three points in all areas.

Response: The SBEC disagrees. In an elementary setting, teachers are often responsible for instruction in one or more content areas. The current structure of a cumulative 24 points maximizes flexibility for elementary teachers, while the 3-point minimum ensures some competency in each subject area. The Texas Core Content Competency Worksheet for Special Education Teachers of Record provides a range of flexible options for teachers to demonstrate their content competency.

Comment: One director of special education services for an education service center supported the changes as written and

stated that the proposed revisions decrease the reliance of Texas teachers on HOUSSE.

Response: The SBEC agrees. The Texas worksheet aligns with federal requirements and provides additional flexibility for teachers to demonstrate their content competency in each subject area.

Comment: One educational diagnostician requested that the board not require additional certification for educational diagnosticians or provide an option for current diagnosticians to be grandfathered in without additional certification requirements. The commenter stated that diagnosticians in the state are already stretched thin, and requiring additional certification feels punitive.

Response: The comment is outside the scope of the proposed rulemaking.

Comment: One school psychologist requested that the board reconsider the proposal or modify the legal definition for psychological services.

Response: The public comment is outside the scope of the proposed rulemaking, as school psychologist requirements are included in 19 TAC Chapter 231, Subchapter G, Paraprofessional Personnel, Administrators, and Other Instructional and Professional Support Assignments.

Comment: The Texas Council of Administrators of Special Education (TCASE) expressed appreciation for the flexibility of the proposed new rules and the new worksheet but have concerns with qualifying teachers of all subjects at the high school level. TCASE stated that it is difficult to qualify high school special education teachers in mathematics and science and disagreed with the premise that it is inappropriate to assign a teacher with the grade level expertise that matches the knowledge and skill level of a student, since a student's functional performance can be lower than their enrolled grade level. TCASE also proposed additional edits such as removing the word "relevant" from Sections C and D, aligning professional development time limit to certification renewal requirements, allowing elementary teachers to count secondary professional development, and providing clarity on whether the worksheet is an annual requirement and clarifying the effective date. In addition, TCASE requested that additional flexibility be added to the Texas Core Content Competency Worksheet, specifically for secondary teachers of record who teach multiple content areas.

Response: The SBEC disagrees with qualifying teachers of all subjects at the high school level and with removing the term "relevant." While the Texas Core Content Competency Worksheet should align with professional certification requirements and allow for additional flexibilities in both the elementary and secondary sections, federal requirements state that all students should have access to general education curriculum for the grade level in which the students are enrolled. Likewise, the term "relevant" is necessary to ensure that the professional development generating points on an educator's worksheet are both related to the content area they are assigned as teacher of record, as well as relevant to the courses they are responsible for. The SBEC agrees with adding flexibility to the Texas Core Content Competency Worksheet. At adoption, the SBEC modified the worksheet to include holding a content-aligned National Board Certification, holding a Teacher Incentive Allotment designation, and completing relevant professional development within the last five years as qualifying factors for demonstration

of content knowledge. Additionally, flexibility was added for secondary teachers of record for multiple content areas.

Comment: Disability Rights Texas commented with a concern about secondary level special education teachers and how they use the worksheet referenced in the proposed changes. While emphasizing the importance that all students with disabilities have access to qualified teachers, the commenter recognizes that it can be difficult to find special education teachers who demonstrate competency in each core content area in which they teach. In this case, the commenter suggested that the rule should be revised to allow a special education teacher to work with a co-teacher who meets the points requirement in the Worksheet or has content certification in a co-teach model, as a way to satisfy the new requirements.

Response: The SBEC disagrees. The Texas Core Content Competency Worksheet includes flexible options for secondary teachers of multiple content areas to meet content competency requirements, as well as provisions for first year teachers who do not meet content competency requirements.

Comment: One teacher commented in support of the proposed changes but suggested that additional options be considered to offer even more flexibility in hiring special education teachers. The commenter suggested options such as accepting a passing score on the Pre-Admission Content Test (PACT) exam, accepting college credit hours in the content areas, assigning points for a passing score on the older 161 Special Education EC-12 exam, accepting teaching experience and relevant professional development, and accepting residency placement.

Response: The SBEC disagrees. The Texas Core Content Competency Worksheet for Special Education Teachers of Record already includes most of the suggestions from the commenter for teachers to generate points from a passing score on a PACT exam, college credit hours, previous teaching experience, relevant professional development, and residency placements, among other flexible options; however, the 161 Special Education EC-12 exam will retire in September of 2025 and will no longer be an available option for special education certification.

The State Board of Education (SBOE) took no action on the review of the repeal of §231.701, new §231.701 and §231.710, and amendment to §231.709 at the April 11, 2025 meeting.

19 TAC §231.701

STATUTORY AUTHORITY. The repeal is adopted under Texas Education Code (TEC), §21.003(a), which states that a person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or school counselor by a school district unless the person holds an appropriate certificate or permit issued as provided by the TEC, Chapter 21, Subchapter B; TEC, §21.031(a), which states that the SBEC shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; TEC, §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; TEC, §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates; and TEC, §21.064, which requires the SBEC to stop the issuance and renewal of master teacher certificates effective June 12, 2019, to add a designation of "legacy" to each master teacher

certificate issued, and to recognize these certificates until they expire.

CROSS REFERENCE TO STATUTE. The repeal implements Texas Education Code, §§21.003(a); 21.031(a); 21.041(b)(1) and (2); and 21.064.

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

Filed with the Office of the Secretary of State on April 28, 2025.

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Cristina De La Fuente-Valadez

Director, Rulemaking

State Board for Educator Certification

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

(6) Deaf and Severely Hard of Hearing.

(7) Hearing Impaired.

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

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CHAPTER 235. CLASSROOM TEACHER CERTIFICATION STANDARDS

The State Board for Educator Certification (SBEC) adopts an amendment to §235.1, new §§235.2, 235.11, 235.21, and 235.61, and the repeal of §§235.11, 235.13, 235.21, 235.41, 235.61, and 235.63, concerning classroom teacher certification standards. Sections 235.1, 235.11, 235.13, 235.21, 235.41, 235.61, and 235.63 are adopted without changes to the proposed text as published in the January 10, 2025 issue of the *Texas Register* (50 TexReg 239) and will not be republished. Section 235.2 is adopted with changes to the proposed text as published in the January 10, 2025 issue of the *Texas Register* (50 TexReg 239) and will be republished. The adopted revisions repeal the current grade-banded classroom teacher pedagogy standards and replace them with the new Classroom Teacher Pedagogy standards.

REASONED JUSTIFICATION: The SBEC rules in 19 Texas Administrative Code (TAC) Chapter 235, Classroom Teacher Certification Standards, specify the standards for the classroom teacher class of certificates. SBEC is statutorily authorized to ensure that all candidates for certification or renewal demonstrate the knowledge and skills necessary to improve the performance of this state's student population. The classroom teacher certification standards are the basis for educator preparation programs (EPPs) to effectively prepare classroom teachers and the foundation for the certification examinations.

Updated Classroom Teacher Pedagogy Standards

At the September 2023 SBEC meeting, the Board approved membership to the Educator Standards Advisory Committee (ESAC). The ESAC participated in sessions that informed their work and engaged in an iterative standards revision process from November 2023 - March 2024.

At the April 2024 SBEC meeting, SBEC reviewed and discussed a draft of the updated Classroom Teacher Pedagogy Standards. Both SBEC and stakeholders indicated a need to more clearly include lesson design as an essential skill for teachers. Texas Education Agency (TEA) staff updated the standards to include lesson design and presented an updated draft to SBEC at its July 2024 meeting. During the July and September 2024 SBEC meetings, SBEC reviewed and discussed the updated drafts of the Classroom Teacher Pedagogy Standards reflective of additional stakeholder feedback. Since the September 2024 SBEC

19 TAC §§231.701, 231.709, 231.710

STATUTORY AUTHORITY. The new sections and amendment are adopted under Texas Education Code (TEC), §21.003(a), which states that a person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or school counselor by a school district unless the person holds an appropriate certificate or permit issued as provided by the TEC, Chapter 21, Subchapter B; TEC, §21.031(a), which states that the SBEC shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; TEC, §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; TEC, §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates; and TEC, §21.064, which requires the SBEC to stop the issuance and renewal of master teacher certificates effective June 12, 2019, to add a designation of "legacy" to each master teacher certificate issued, and to recognize these certificates until they expire.

CROSS REFERENCE TO STATUTE. The new sections and amendment implement Texas Education Code, §§21.003(a); 21.031(a); 21.041(b)(1) and (2); and 21.064.

§231.710. Teacher of Students who are Deafblind.

(a) An assignment for Teacher of Students who are Deafblind is allowed with the Deafblind Supplemental: Early Childhood-Grade 12 certificate.

(b) A teacher in an assignment for Teacher of Students who are Deafblind must also hold one or more of the following certificates.

(1) Teacher of Students with Visual Impairments Supplemental: Early Childhood-Grade 12.

(2) Teacher of the Deaf and Hard of Hearing: Early Childhood-Grade 12.

(3) Teacher of Students who are Visually Impaired.

(4) Deficient Vision.

(5) Visually Handicapped.

meeting, minor changes were made to the standards in response to SBEC and stakeholder feedback.

Adopted Revisions to 19 TAC Chapter 235, Subchapters A, B, C, and D:

The following is a description of the adopted revisions to 19 TAC Chapter 235, Subchapters A, B, C, and D. The adopted revisions reflect a reorganization of educator standard groups and include the new classroom teacher certification standards that serve to implement House Bill (HB) 1605, 88th Texas Legislature, Regular Session, 2023. The adopted revisions also provide additional specification related to implementation of HB 159, 87th Texas Legislature, Regular Session, 2021, and Senate Bill 226, 87th Texas Legislature, Regular Session, 2021.

Subchapter A. General Provisions

Adopted Amendment to 19 TAC §235.1

The adopted amendment to 19 TAC §235.1(a) updates the cross reference to the SBEC's rules related to educator preparation curriculum and outlines the required use of educator standards in EPP curriculum.

The adopted amendment to 19 TAC §235.1(b)(4) strikes the term "grade-band" to better align with subsequent subchapters and sections and creates a single set of standards across Early Childhood-Grade 12.

Adopted New 19 TAC §235.2. Definitions

The adopted new 19 TAC §235.2 includes definitions that provide clarity for the field and promotes a common understanding of terms used within the updated Classroom Teacher Pedagogy Standards.

In response to public comment, the phrase "approved by the State Board of Education" was added at adoption to the definition of "high-quality instructional materials" to reference the State Board of Education's authority to approve high-quality instructional materials (HQIM).

Subchapter B. Early Childhood Certificate Standards

The adopted repeal of Subchapter B, Elementary School Certificate Standards, and new Subchapter B, Early Childhood Certificate Standards, removes the Pedagogy and Professional Responsibilities Standards for Prekindergarten-Grade 3 and Early Childhood-Grade 6 and aligns with the reorganization of subsequent subchapters. The subchapter title was also updated to more accurately reflect the content standards for teachers of students in Prekindergarten-Grade 3.

Adopted New 19 TAC §235.11. Content Standards, Early Childhood: Prekindergarten-Grade 3

The adopted new 19 TAC §235.11 outlines the content standards for Prekindergarten-Grade 3.

Subchapter C. Classroom Teacher Pedagogy Standards, Early Childhood-Grade 12

The adopted repeal and replacement of Subchapter C, Middle School Certificate Standards, removes the Pedagogy and Professional Responsibilities Standards for Grades 4-8 and aligns with the reorganization of the adopted new subchapters. The subchapter title was also updated to more accurately reflect the updated classroom teaching standards for Early Childhood-Grade 12.

Adopted New 19 TAC §235.21. Classroom Teacher Pedagogy Standards, Early Childhood-Grade 12

The adopted new 19 TAC §235.21 outlines teacher pedagogy and English language arts and reading (ELAR) and Mathematics content pedagogy standards for teachers of students in Early Childhood-Grade 12. The adopted updated standards work to inform the preparation, appraisal, and professional development of Early Childhood-Grade 12 pre- and in-service teachers in Texas.

The adopted new §235.21(a) provides an overview of the educator standards in adopted new Subchapter C, Classroom Teacher Pedagogy Standards, Early Childhood-Grade 12.

Due to error as submitted by TEA in the January 10, 2025 issue of the *Texas Register* (50 TexReg 239), the TEA filed a correction of error to correct typographical errors in 19 TAC §235.21(a) so the text at adoption reads "define a teacher's role as a professional, ethical, and reflective practitioner." This correction of error is published in the *In Addition* section of this issue.

The adopted new §235.21(b) outlines the necessary knowledge and skills related to instructional preparation.

The adopted new §235.21(c) outlines the necessary knowledge and skills related to instructional delivery and assessment.

The adopted new §235.21(d) outlines the necessary knowledge and skills related to content pedagogy for all teachers and for teachers leading ELAR and mathematics classes.

The adopted new §235.21(e) outlines the necessary knowledge and skills related to learning environment.

The adopted new §235.21(f) outlines the necessary knowledge and skills related to professional practices and responsibilities.

Subchapter D. Trade and Industrial Workforce Training Certification Standards

The adopted repeal and replacement of Subchapter D, Secondary School Certificate Standards, removes the Pedagogy and Professional Responsibilities Standards for Grades 7-12 and aligns with the reorganization of the adopted new subchapters. The subchapter title was also updated to more accurately reflect rules that were focused on the Trade and Industrial Workforce Training Certification Standards for Grades 6-12.

Adopted New 19 TAC §235.61. Pedagogy and Professional Responsibilities Standards, Grades 6-12, Trade and Industrial Workforce Training

The adopted new 19 TAC §235.61 outlines pedagogy and professional responsibilities standards for teachers of students in Grades 6-12 Trade and Industrial Workforce Training courses.

The following table provides a high-level overview of the reorganization of educator standards in Chapter 235, Subchapters B, C, and D.

Figure: 19 TAC Chapter 235 - Preamble

SUMMARY OF COMMENTS AND RESPONSES: The public comment period on the proposal began January 10, 2025, and ended February 10, 2025. The SBEC also provided an opportunity for registered oral and written comments on the proposal at the February 14, 2025 meeting's public comment period in accordance with the SBEC board operating policies and procedures. The following public comments were received on the proposal.

Comment: One teacher suggested that SBEC expand the practicum option for other programs beyond business, considering local labor markets and allowing certifications such as Fusion 360 to count as a Tier 1 or Tier 2 option, and offer incentives to encourage career and technical education teachers to become certified in their areas. The commenter suggested Florida's Career and Professional Education (CAPE) Act as a potential model.

Response: The comment is outside the scope of the proposed rulemaking, as it refers to the Pedagogy and Professional Responsibility Standards, Grade 6-12, Trade and Industrial Workforce Training. The proposed revised standards apply to the classroom teacher pedagogy standards for Grades Early Childhood-Grade 12. There are no revisions to the Trade and Industrial Workforce Training standards.

Comment: One administrator stated that requiring additional certifications will be detrimental to recruiting and retaining qualified teachers, especially in rural areas.

Response: The comment is outside the scope of the proposed rulemaking, as the proposed Classroom Teacher Pedagogy Standards do not create any additional certificates.

Comment: One associate professor of educational psychology commented in favor of the new standards that integrate evidence-based cognitive science that supports long lasting learning. The commenter emphasized that incorporating the science of learning does not threaten teacher autonomy but rather supports it.

Response: The SBEC agrees. Evidence-based cognitive science is embedded throughout the standards to support teacher expertise.

Comment: One administrator of a Texas EPP commented in support of the proposed changes in the educator standards. The commenter emphasized the importance of instructing teachers on how to use high-quality resources as they plan for instruction.

Response: The SBEC agrees. The standards clarify instructional preparation practices that will ensure newly certified teachers are prepared to meet the needs of their districts.

Comment: Texas American Federation of Teachers (Texas AFT) commented that the current definition of "high-quality instructional materials" in the proposed rules is inconsistent with other definitions communicated by the TEA related to HB 1605, 88th Texas Legislature, Regular Session, 2023, and HQIM. The commenter expressed concerned that this will lead to confusion and requested that the definition of HQIM, as defined by the SBEC, be modified to reflect the State Board of Education's (SBOE's) authority to define HQIM so that there is a singular definition through the TAC.

Response: The SBEC agrees. Including SBOE's authority to approve HQIM in the definition will clarify the term while maintaining the intent of the revised standards. The SBEC adopted a technical edit to the HQIM definition in 19 TAC §235.2(13).

Comment: One teacher commented in support of the new standards. The commenter stated that it is important for teachers to be able to design lessons and demonstrate the ability to evaluate, navigate, select, and customize high-quality materials for their grade level and subject.

Response: The SBEC agrees. The revisions to the standards recognize lesson design, as well as analysis and internalization

of instructional materials, as essential knowledge and skills for all teachers to effectively prepare for instruction.

Comment: One parent commented that the proposed changes incorporate many positive and streamlined changes that will benefit students, educators, and EPPs. The commenter stated that the proposed changes add more depth and clarity regarding legislative changes at the state level and that the updates reflect evidence and research-based best practices that will support all Texas schoolchildren.

Response: The SBEC agrees. The standards align with legislation and create a unified set of expectations for best practices to guide teacher preparation.

Comment: One teacher commented in support of the proposed changes. The commenter emphasized that training Texas teachers to use assessment data to identify prior knowledge and plan for the needs of students helps to prepare Texas teachers to provide high-quality instruction that benefits Texas students. The commenter added that using a pre-assessment with a struggling student helped to understand the student's prior knowledge and tailor the use of high-quality instructional materials to meet the student's instructional needs.

Response: The SBEC agrees. The revised standards recognize assessment and analysis of student work, based in the cognitive science of learning, as essential skills and embed these practices throughout preparation and delivery of instruction.

Comment: One administrator commented in support of the proposed changes. The commenter shared that their district is in their third year of HQIM implementation and that embedding and planning for Research-Based Instructional Strategies has been crucial to the success of their educators going into their first year of teaching. The commenter also emphasized the importance of mentorship, coaching, and fostering an understanding of the Texas Teacher Evaluation and Support System (T-TESS) rubric in helping educators reach optimal success with their students.

Response: The SBEC agrees. Research-based instructional strategies for instructional preparation, delivery, assessment, classroom management, and continuous improvement are embedded throughout the standards to ensure newly certified teachers are ready to meet the needs of their districts.

The State Board of Education (SBOE) took no action on the review of the amendment to §235.1, new §§235.2, 235.11, 235.21, and 235.61, and the repeal of §§235.11, 235.13, 235.21, 235.41, 235.61, and 235.63 at the April 11, 2025 SBOE meeting.

SUBCHAPTER A. GENERAL PROVISIONS

19 TAC §235.1, §235.2

STATUTORY AUTHORITY. The amendment and new section are adopted under Texas Education Code (TEC), §21.003(a), which states that a person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or school counselor by a school district unless the person holds an appropriate certificate or permit issued as provided by the TEC, Chapter 21, Subchapter B; TEC, §21.031, which authorizes the SBEC to regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators, and states that in proposing rules under the TEC, Chapter 21, Subchapter B, the SBEC shall ensure that all candidates for certification or renewal of certification demonstrate the knowledge and skills necessary to improve the performance of the diverse student population of

this state; TEC, §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; TEC, §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates; and TEC, §21.041(b)(4), which requires the SBEC to propose rules that specify the requirements for the issuance and renewal of an educator certificate.

CROSS REFERENCE TO STATUTE. The amendment and new section implement Texas Education Code (TEC), §§21.003(a), 21.031, and 21.041(b)(1), (2), and (4).

§235.2. *Definitions.*

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

(1) Academic language--The oral, written, auditory, and visual language specific to a discipline. It includes vocabulary, grammar, punctuation, syntax, discipline-specific terminology, and rhetorical conventions that allow students to acquire knowledge and academic skills.

(2) Accelerated instruction/Acceleration--Includes aligned research-driven strategies and supports within a multi-tiered instructional model that helps students make more than one year of growth in one year of time.

(3) Complex text--Texts that provide students opportunities to work with new language, knowledge, and ways of thinking. Text complexity is evaluated along quantitative dimensions such as word and sentence length, qualitative dimensions such as text structure, levels of meaning, and language conventions, and considerations, including the reader's background, motivation, and knowledge of the topic.

(4) Deliberate practice--Practice that is systematic, requires sustained attention, and is conducted with the specific goal of improving performance on targeted skills.

(5) Encoding--The process by which information is initially coded to be stored and retrieved. Encoding requires attention to key concepts and knowledge structures and is aided by reducing extraneous cognitive load or information in the learning environment.

(6) Engagement--A state in which students are cognitively and behaviorally connected to and involved in their learning experience, characterized by participation, curiosity, and perseverance.

(7) Evidence-based--A concept or strategy that has been evaluated as a whole and found to have positive effects when implemented with programmatic fidelity.

(8) Explanatory feedback--Feedback that provides the learner with an explanation of strengths and weaknesses related to the learning activity or assignment.

(9) Explicit instruction--Instruction in which the teacher's actions are clear, unambiguous, direct, and visible. Explicit instruction makes it clear what the students are to do and learn.

(10) Fixed personality traits--The misconception that personality traits become fixed at certain stages of an individual's development and do not change over time.

(11) Formative assessment--A deliberate low or no-stakes process used by teachers during instruction to elicit and use evidence of student learning to provide actionable feedback and improve students' attainment of learning targets.

(12) Hemispheric dominance--The misconception that each brain hemisphere is specialized to process information differently and that the dominant hemisphere determines a person's personality and way of thinking.

(13) High-quality instructional materials--Instructional materials, approved by the State Board of Education, that ensure full coverage of Texas Essential Knowledge and Skills; are aligned to evidence-based best practices in the relevant content areas; support all learners, including students with disabilities, emergent bilingual students, and students identified as gifted and talented; enable frequent progress monitoring through embedded and aligned assessments; include implementation supports for teachers; and provide teacher and student-facing lesson-level materials.

(14) Instructional preparation--Describes the process by which a teacher uses knowledge of students and student learning to prepare instructional delivery to a unique group of students. Instructional preparation may include activities such as lesson plan design, evaluation of instructional materials, and lesson internalization.

(15) Interleaving--An instructional technique that arranges practice of topics in such a way that consecutive problems cannot be solved by the same strategy.

(16) Just-in-time supports--A learning acceleration strategy that integrates small, timely supports to address gaps in the most critical prerequisite knowledge and skills that students will need to access grade or course level content in upcoming units.

(17) Learning styles--The disproven theory that identifies learners by type--visual, auditory, reading and writing, and kinesthetic--and adapts instruction to the individual's learning style.

(18) Lesson plan design--Describes the process by which a teacher creates the planned learning experiences and related instructional materials for a topic. Lesson plan design includes activities such as developing or selecting objectives, learning experiences, sequencing, scaffolds, resources, materials, tasks, assessments, and planned instructional practices.

(19) Lesson internalization--An aspect of instructional preparation specific to teaching a lesson or unit. It includes activities such as evaluating sequencing, learning goals, and expected outcomes, using assessment data to identify prior knowledge, studying lesson content, rehearsing lesson delivery, identifying possible misconceptions, as well as planning instructional strategies, materials, and pacing.

(20) Metacognition--The awareness of how one's mind learns and thinks and the use of that awareness to optimize the efficiency of learning and cognition.

(21) Multiple means of engagement--A range of options provided to engage and motivate students in learning.

(22) Multiple means of representation--A range of options provided in the ways that information is presented to students.

(23) Multiple means of action and expression--A range of options provided in the ways that students express or demonstrate their learning.

(24) Open education resource instructional materials--State-developed materials included on the list of approved instructional materials maintained by the State Board of Education under Texas Education Code (TEC), §31.022, where the underlying intellectual property is either owned by the state of Texas or it can be freely used and modified by the state in perpetuity.

(25) Patterns of student thinking--Common patterns in the ways in which students think about and develop understanding and skill in relation to particular topics and problems.

(26) Productive struggle--Expending effort to understand a challenging situation and determine a course of action when no obvious strategy is stated, and receiving support that encourages persistence without removing the challenge.

(27) Recall--Also referred to as "retrieval," the mental process of retrieving information that was previously encoded and stored in long-term memory.

(28) Remediation--Strategies that focus on the drilling of isolated skills that bear little resemblance to current curriculum. Activities connect to past standards and aim to master content from past years.

(29) Research-based--A concept or strategy with positive findings from studies effective in isolation or combination with other researched strategies or evidence-based programs.

(30) Retrieval practice--Also referred to as "testing effect" or "active recall," it is the finding that trying to remember previously learned material, including by responding to questions, tests, assessments, etc., leads to better retention than restudying or being retold the material for an equivalent amount of time.

(31) Science of learning--The summarized existing cognitive-science, cognitive psychology, educational psychology, and neuroscience research on how people learn, as it connects to practical implications for teaching.

(32) Second language acquisition--The process through which individuals leverage their primary language to learn a new language. A dynamic process of learning and acquiring proficiency in the English language, supported by exposure to comprehensible input, interaction, formal instruction, and access to resources and support in English and primary language.

(33) Spaced practice/Distributed practice--Spaced practice sequences learning in a way that students actively retrieve learned information from long-term memory through multiple opportunities over time with intervals in between--starting with shorter intervals initially (e.g., hours or days) and building up to longer intervals (e.g., weeks).

(34) State Board of Education--approved instructional materials--Materials included on the list of approved instructional materials maintained by the State Board of Education under Texas Education Code (TEC), §31.022.

(35) Summative assessment--Medium-to-high-stakes assessments, administered at the conclusion of an instructional period that are used to evaluate student learning, knowledge, proficiency, or mastery of a learning target.

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

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SUBCHAPTER B. ELEMENTARY SCHOOL CERTIFICATE STANDARDS

19 TAC §§235.11, 235.13, 235.21

STATUTORY AUTHORITY. The repeals are adopted under Texas Education Code (TEC), §21.003(a), which states that a person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or school counselor by a school district unless the person holds an appropriate certificate or permit issued as provided by the TEC, Chapter 21, Subchapter B; TEC, §21.031, which authorizes the SBEC to regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators, and states that in proposing rules under the TEC, Chapter 21, Subchapter B, the SBEC shall ensure that all candidates for certification or renewal of certification demonstrate the knowledge and skills necessary to improve the performance of the diverse student population of this state; TEC, §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; TEC, §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates; and TEC, §21.041(b)(4), which requires the SBEC to propose rules that specify the requirements for the issuance and renewal of an educator certificate.

CROSS REFERENCE TO STATUTE. The repeals implement Texas Education Code (TEC), §§21.003(a), 21.031, and 21.041(b)(1), (2), and (4).

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

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19 TAC §235.11

STATUTORY AUTHORITY. The new section is adopted under Texas Education Code (TEC), §21.003(a), which states that a person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or school counselor by a school district unless the person holds an appropriate certificate or permit issued as provided by the TEC, Chapter 21, Subchapter B; TEC, §21.031, which authorizes the SBEC to regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators, and states that in proposing rules under the TEC, Chapter 21, Subchapter B, the SBEC shall ensure that all candidates for certification or renewal of certification demonstrate the knowledge and skills necessary

to improve the performance of the diverse student population of this state; TEC, §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; TEC, §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates; and TEC, §21.041(b)(4), which requires the SBEC to propose rules that specify the requirements for the issuance and renewal of an educator certificate.

CROSS REFERENCE TO STATUTE. The new section implements Texas Education Code (TEC), §§21.003(a), 21.031, and 21.041(b)(1), (2), and (4).

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SUBCHAPTER C. CLASSROOM TEACHER PEDAGOGY STANDARDS, EARLY CHILDHOOD-GRADE 12

19 TAC §235.21

STATUTORY AUTHORITY. The new section is adopted under Texas Education Code (TEC), §21.003(a), which states that a person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or school counselor by a school district unless the person holds an appropriate certificate or permit issued as provided by the TEC, Chapter 21, Subchapter B; TEC, §21.031, which authorizes the SBEC to regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators, and states that in proposing rules under the TEC, Chapter 21, Subchapter B, the SBEC shall ensure that all candidates for certification or renewal of certification demonstrate the knowledge and skills necessary to improve the performance of the diverse student population of this state; TEC, §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; TEC, §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates; and TEC, §21.041(b)(4), which requires the SBEC to propose rules that specify the requirements for the issuance and renewal of an educator certificate.

CROSS REFERENCE TO STATUTE. The new section implements Texas Education Code (TEC), §§21.003(a), 21.031, and 21.041(b)(1), (2), and (4).

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

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Director, Rulemaking

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



19 TAC §235.41

STATUTORY AUTHORITY. The repeal is adopted under Texas Education Code (TEC), §21.003(a), which states that a person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or school counselor by a school district unless the person holds an appropriate certificate or permit issued as provided by the TEC, Chapter 21, Subchapter B; TEC, §21.031, which authorizes the SBEC to regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators, and states that in proposing rules under the TEC, Chapter 21, Subchapter B, the SBEC shall ensure that all candidates for certification or renewal of certification demonstrate the knowledge and skills necessary to improve the performance of the diverse student population of this state; TEC, §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; TEC, §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates; and TEC, §21.041(b)(4), which requires the SBEC to propose rules that specify the requirements for the issuance and renewal of an educator certificate.

CROSS REFERENCE TO STATUTE. The repeal implements Texas Education Code (TEC), §§21.003(a), 21.031, and 21.041(b)(1), (2), and (4).

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

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SUBCHAPTER D. SECONDARY SCHOOL CERTIFICATE STANDARDS

19 TAC §235.61, §235.63

STATUTORY AUTHORITY. The repeals are adopted under Texas Education Code (TEC), §21.003(a), which states that a person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or school counselor by a school district unless the person holds an appropriate certificate or permit issued as provided by the TEC, Chapter 21, Subchapter B; TEC, §21.031, which authorizes the SBEC to regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators, and states that in proposing rules under the TEC, Chapter 21, Subchapter B, the SBEC shall ensure that all candidates for certification or renewal of certification demonstrate the knowledge and skills necessary to improve the performance of the diverse student population of this state; TEC, §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; TEC, §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates; and TEC, §21.041(b)(4), which requires the SBEC to propose rules that specify the requirements for the issuance and renewal of an educator certificate.

CROSS REFERENCE TO STATUTE. The repeals implement Texas Education Code (TEC), §§21.003(a), 21.031, and 21.041(b)(1), (2), and (4).

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

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19 TAC §235.61

STATUTORY AUTHORITY. The new section is adopted under Texas Education Code (TEC), §21.003(a), which states that a person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or school counselor by a school district unless the person holds an appropriate certificate or permit issued as provided by the TEC, Chapter 21, Subchapter B; TEC, §21.031, which authorizes the SBEC to regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators, and states that in proposing rules under the TEC, Chapter 21, Subchapter B, the SBEC shall ensure that all candidates for certification or renewal of certification demonstrate the knowledge and skills necessary to improve the performance of the diverse student population of this state; TEC, §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; TEC, §21.041(b)(2), which requires the SBEC to propose rules

that specify the classes of educator certificates to be issued, including emergency certificates; and TEC, §21.041(b)(4), which requires the SBEC to propose rules that specify the requirements for the issuance and renewal of an educator certificate.

CROSS REFERENCE TO STATUTE. The new section implements Texas Education Code (TEC), §§21.003(a), and 21.031, 21.041(b)(1), (2), and (4).

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

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CHAPTER 249. DISCIPLINARY PROCEEDINGS, SANCTIONS, AND CONTESTED CASES

The State Board for Educator Certification (SBEC) adopts amendments to §§249.3, 249.11 - 249.15, 249.17, 249.26, 249.27, and 249.37, concerning disciplinary proceedings, sanctions, and contested cases. Sections 249.3, 249.11 - 249.15, 249.26, 249.27, and 249.37 are adopted without changes to the proposed text as published in the January 10, 2025 issue of the *Texas Register* (50 TexReg 251) and will not be republished. Section 249.17 is adopted with changes to the proposed text as published in the January 10, 2025 issue of the *Texas Register* (50 TexReg 251) and will be republished. The adopted amendments reflect the results of prior discussions on Chapter 249 by the SBEC, as well as multiple stakeholder engagement sessions, by amending the contract abandonment mitigating factors; amending the definition of solicitation to add grooming behaviors; updating the SBEC's mandatory minimum sanctions; updating the SBEC's mailing procedures to allow original petitions and default petitions to be sent via electronic mail; clarifying that all notices sent to comply with Texas Government Code, §2001.054, will be sent via certified or registered mail, removing the requirement that exceptions must be filed or an issue is waived; clarifying the erroneously issued certificate section to explicitly state that the cancellation of a certificate issued as the result of a Texas Education Agency (TEA) information technology error will not result in a contested case; and amending the SBEC's definition of abuse to mirror the definition of abuse found in Texas Family Code, Chapter 261, as well as additional technical edits.

REASONED JUSTIFICATION: The SBEC rules in 19 TAC Chapter 249, Disciplinary Proceedings, Sanctions, and Contested Cases, establish the sanction requirements and procedures for disciplinary actions against educators.

The SBEC engaged in discussions related to potential amendments during the April, July, and September 2024 SBEC meetings. At the April meeting, the SBEC had a preliminary discussion on potential amendments to Chapter 249. The recommen-

datations discussed were informed by challenges and areas for improvement identified by staff in the application of Chapter 249 or issues previously raised by the SBEC at prior meetings.

TEA staff brought these potential changes to the Educator Preparation Stakeholder Group on June 21, 2024, and held a stakeholder engagement meeting with the general public on July 9, 2024. TEA staff presented the feedback from these stakeholder engagement meetings to the SBEC at the July meeting. TEA staff presented the preliminary draft to stakeholders at a stakeholder engagement meeting on August 30, 2024, and presented the feedback from this stakeholder engagement meeting to the SBEC at the September meeting. TEA staff received feedback on the draft text presented at the September meeting, and the adopted amendments incorporate both SBEC input as well as input from stakeholders.

Subchapter A. General Provisions

§249.3. Definitions.

The adopted amendment to §249.3(1) aligns the definition of *Abuse* with the definition of *Abuse* in Texas Family Code, §261.001(1), as well as the commissioner of education's definition of *Abuse* in 19 TAC §153.1201(b), Definitions.

The adopted amendment to §249.3(29) updates the definition of *Mail* to include first-class United States mail and electronic mail and removes the phrase, "unless otherwise provided by this chapter."

The adopted amendment to §249.3(51) adds new subparagraph (K) to the definition of *Solicitation of a romantic relationship* to add grooming behaviors in the totality of the circumstances, specifically showing a student special attention; giving the student individual gifts, money, or privileges; isolating the student; exposing the student to adult topics or conversation and/or media that is not age appropriate; or meeting behind closed doors with the student without another adult present; as well as removes the word "may" and "prima facie" as related to what acts considered in context constitute evidence of solicitation. Subsequent subparagraphs were relettered.

Technical edits were made to §249.3(44) to correct a typographical error and to §249.3(52) to update a cross reference for clarity.

Subchapter B. Enforcement Actions and Guidelines

§249.11. Test Irregularities; Appeal, Sanctions.

The adopted amendment to §249.11(a) modifies the methods of service for written notice of alleged violations of certification test administration rules or procedures to allow for the notice to be sent via first-class United States mail or electronic notification only.

§249.12. Administrative Denial; Appeal.

The adopted amendment to §249.12(b) adds persons that are subject to placement on the Registry of Persons Not Eligible for Hire under TEC, §22.092, and conduct that demonstrates that a person violated 19 TAC Chapter 247, Educators' Code of Ethics, as reasons the TEA staff may administratively deny a certificate. Subsequent subparagraphs were relettered.

§249.13. Cancellation of an Erroneously Issued Certificate.

Adopted new §249.13(f) provides that this section does not apply to erroneously issued certificates as the result of a TEA systems error.

§249.14. Complaint, Required Reporting, and Investigation; Investigative Notice; Filing of Petition.

Adopted new §249.14(p) adds that before institution of agency proceedings, TEA staff shall send a letter via certified or registered mail to the certificate holder giving them notice of the facts or conduct alleged to warrant the intended action and an opportunity to show compliance with all requirements of law for the retention of the certificate. Subsequent subparagraphs were relettered.

§249.15. Disciplinary Action by State Board for Educator Certification.

The adopted amendment to §249.15(a)(5) adds that the SBEC may impose classes and treatment programs that the SBEC deems necessary as a condition or restriction on a certificate.

§249.17. Decision-Making Guidelines.

The adopted amendment to §249.17(d)(1) adds requirements that establish the good cause factors of serious illness or health condition of the educator or close family member of the educator, the educator must provide documentation from a licensed medical provider. It also adds the requirement to provide documentation to establish the good cause factor of relocation to a new city as a result of change in employer of the educator's spouse or partner as a requirement.

The adopted amendment to §249.17(d)(2) adds that a reduction of one month in suspension time be applied for each mitigating factor established.

At adoption, the phrase "except for factors in subparagraphs (G)-(I) of this paragraph" was added to §249.17(d)(2) to clarify which mitigating factors were not eligible for the one-month reduction in suspension time.

The adopted amendment to §249.17(e) adds that an educator who is required to complete pretrial diversion for a felony-level offense is subject to sanction.

The adopted amendment to §249.17(g) adds that an educator is subject to a one-year mandatory minimum sanction for intentional violations of the security or confidential integrity of a test required under TEC in a manner described by 19 TAC §101.3031(a)(3) and removes the mandatory minimum for manipulation of test results.

Adopted new §249.17(k) adds a mandatory minimum sanction of a one-year suspension for an educator who is court-ordered to complete a period of deferred adjudication, community supervision, or pretrial diversion for an offense under Texas Election Code, Chapter 255. The subsequent subsection was relettered.

Subchapter C. Prehearing Matters

§249.26. Petition.

The adopted amendment to §249.26(c) adds that TEA staff may serve a petition by electronic mail to the respondent as well as send a copy of the petition to the respondent's attorney if notice of representation has been provided by electronic mail. It removes the option for service of the petition on the respondent by United States certified mail, return receipt requested.

§249.27. Answer.

The adopted amendment to §249.27 allows a respondent to serve an answer on TEA by electronic mail and removes the requirement that a respondent serve an answer by United States certified mail, return receipt requested.

Subchapter E. Post-Hearing Matters

§249.37. Exceptions and Replies.

The adopted amendment to §249.37 removes the requirement that a disagreement with a factual finding or conclusion of law in the proposal for decision be contained in an exception to the proposal otherwise it is waived. Subsequent subparagraphs were relettered.

SUMMARY OF COMMENTS AND RESPONSES: The public comment period on the proposal began January 10, 2025, and ended February 10, 2025. The SBEC also provided an opportunity for registered oral and written comments on the proposal at the February 14, 2025 meeting's public comment period in accordance with the SBEC board operating policies and procedures. The following public comments were received on the proposal.

Comment: The Association of Texas Professional Educators commented with an appreciation of SBEC and TEA staff for continuing to engage stakeholders in the discussion regarding these proposed changes, but requested some revisions be made, including removing "shows the student special attention" and "meeting behind closed doors with the student without another adult present" from the proposed language that defines grooming behaviors. The commenter suggested the addition of language clarifying that such behaviors shall be considered evidence of solicitation only when they are engaged "without a legitimate educational purpose."

Response: The SBEC disagrees. The proposed grooming behaviors are under the definition of solicitation in 19 Texas Administrative Code (TAC) §249.3(51), which states that solicitation of a romantic relationship is "deliberate or repeated acts that can be reasonably interpreted as the solicitation by an educator of a relationship with a student that is romantic in nature." The definition further clarifies that the listed behavior must be considered in context. Therefore, the proposed factors are only evidence of solicitation when considered in context if they are deliberate or repeated acts that can be reasonably interpreted as the solicitation by an educator of a relationship with a student that is romantic in nature.

Comment: The Texas Classroom Teachers Association (TCTA) recommended that SBEC remove the language "meeting behind closed doors with the student without another adult present" from the grooming language defined in the proposed amendments, as teachers are often required to keep their doors closed and locked for safety. TCTA also suggested the word "may" be added to the language in 19 TAC §249.3(51) and supported the removal of the phrase "prima facie" from the provision. Additionally, TCTA raised concerns about the need for clarity regarding the "systems error" part of the proposed changes, the inability of mitigating factors to reduce contract abandonment to no sanction, and the inclusion of a mandatory one-year suspension for educators who undergo pre-trial diversion.

Response: The SBEC disagrees. The proposed grooming behaviors are under the definition of solicitation in 19 TAC §249.3(51), which states that solicitation of a romantic relationship is "deliberate or repeated acts that can be reasonably interpreted as the solicitation by an educator of a relationship with a student that is romantic in nature." The definition further clarifies that the listed behavior must be considered in context. Therefore, the proposed factors are only evidence of solicitation when considered in context if they are deliberate or repeated acts that can be reasonably interpreted as the solicitation by

an educator of a relationship with a student that is romantic in nature.

In regard to the proposed language for the contract abandonment mitigating factors, 19 TAC §249.17(d)(3)(c) states that the mitigating factors "may mitigate an educator's sanction so significantly that the SBEC takes no disciplinary action." The SBEC has the authority under §249.17(d)(3)(c) to use the mitigating factors to mitigate the contract abandonment sanction down to no sanction.

Further, the plain language of the proposed text in §249.13(f) is clear that the proposed language only applies when a certificate is mistakenly or incorrectly issued as the result of a TEA systems error.

Lastly, the addition of pretrial diversion to the felony conduct minimum sanction is already contained in other sections of SBEC rule and is identical to the language in the mandatory minimum sanction for misdemeanor conduct in 19 TAC §249.17(f).

The State Board of Education (SBOE) took no action on the review of the amendments to §§249.3, 249.11, 249.12, 249.13, 249.14, 249.15, 249.17, 249.26, 249.27, and 249.37 at the April 11, 2025 SBOE meeting.

SUBCHAPTER A. GENERAL PROVISIONS

19 TAC §249.3

STATUTORY AUTHORITY. The amendment is adopted under Texas Education Code (TEC), §§21.006(a)-(c-2), (f)-(g-1), and (i), which require the superintendent or director of a school district, district of innovation, open-enrollment charter school, other charter entity, regional education service center or shared services arrangement to report to the SBEC within seven business days of when the superintendent knew or received a report from a principal that an educator has resigned or is terminated and there is evidence that the educator has engaged in certain misconduct, unless the superintendent or director completes an investigation before the educator resigns or is terminated and determines that the educator did not commit the alleged misconduct. It also requires principals to report to superintendents within seven business days of when the superintendent knew or received a report from a principal that an educator has resigned or is terminated and there is evidence that the educator has engaged in certain misconduct. It further authorizes the SBEC to impose sanctions on educators who fail to report as required by the statute, including authority to impose monetary administrative penalties, gives SBEC rulemaking authority as necessary to implement the statute, and requires the SBEC to create an internet portal to facilitate confidential and secure reporting; TEC, §21.0062, which requires the chief administrative officer of a private school to notify the SBEC within seven days when a private school educator resigns before the completion of an investigation or is terminated and there is evidence that the educator has engaged in certain misconduct and gives the SBEC rulemaking authority to implement the section; TEC, §21.007, which gives the SBEC authority to place a notice that an educator is under investigation for alleged misconduct on the educator's public certification records, requires the SBEC give the educator notice and an opportunity to show cause, requires that the SBEC limit the amount of time the notice can appear on the educator's certification, and gives the SBEC rulemaking authority as necessary to implement the provision; TEC, §21.009(e), which states that the SBEC may revoke the certificate of an administrator if the board determines it is reasonable to believe that the administrator employed an applicant

despite being aware that the applicant had been adjudicated for or convicted of having an inappropriate relationship with a student or minor; TEC, §21.031(a), which charges the SBEC with regulating and overseeing all aspects of the certification, continuing education, and standards of conduct for public school educators; TEC, §21.035, which states that TEA staff provides administrative functions and services for SBEC and gives SBEC the authority to delegate to either the commissioner of education or to TEA staff the authority to settle or otherwise informally dispose of contested cases involving educator certification; TEC, §21.041(a) and (b)(1), (4), (7), and (8), which authorize the SBEC to adopt rules as necessary for its own procedures, to regulate educators, specify the requirements for issuance or renewal of an educator certificate, provide for educator disciplinary proceedings and for enforcement of the educator's code of ethics; TEC, §21.044(a), which authorizes the SBEC to adopt rules establishing training requirements and academic qualifications required for a person to obtain an educator certificate; TEC, §21.058, which requires the SBEC to revoke the certification of an educator convicted or placed on deferred adjudication community supervision for certain offenses; TEC, §21.0581, which authorizes SBEC to take action against a person who assists another person obtain employment at a school despite knowing the other person engaged in sexual misconduct with a minor or student; TEC, §21.060, which sets out crimes that relate to the education profession and authorizes the SBEC to sanction or refuse to issue a certificate to any person who has been convicted of one of these offenses; TEC, §21.065, which sets requirements for the notice SBEC must send when it suspends an educator's certificate; TEC, §21.105(c), which allows the SBEC to impose sanctions against an educator who abandons a probationary contract; TEC, §21.160(c), which allows the SBEC to impose sanctions against an educator who abandons a continuing contract; TEC, §21.210(c), which allows the SBEC to impose sanctions against an educator who abandons a term contract; TEC, §22.082, which requires the SBEC to subscribe to the criminal history clearinghouse and allows the SBEC to obtain any criminal history from any closed case file; TEC, §22.0831, which requires the SBEC to review the criminal history of certified educators and applicants for certification; TEC, §22.085, which requires school districts, charter schools, and shared services arrangements to conduct fingerprint criminal background checks on employees and refuse to hire those that have certain criminal history; TEC, §22.087, which requires superintendents and directors of school districts, charter schools, private schools, regional education service centers, and shared services arrangements to notify the SBEC if an applicant for a certification has criminal history that is not in the criminal history clearinghouse; TEC, §22.092, which requires school districts, charter schools, districts of innovation, regional education service centers, and shared services arrangements to discharge or refuse to hire any person listed on the registry of persons not eligible for employment in Texas public schools; TEC, §22.093, requires superintendents or directors of school districts, districts of innovation, charter schools, regional education service centers, or shared services arrangements to notify the commissioner of education if an employee resigned or was terminated and there is evidence that the employee abused or otherwise committed an unlawful act with a student or minor or was involved in a romantic relationship with a student or minor; Texas Government Code (TGC), §411.090, which allows the SBEC to get from the Texas Department of Public Safety all criminal history record information about any applicant for licensure as an educator; TGC, §2001.054(c), which requires the

SBEC to give notice by personal service or by registered or certified mail to the license holder of the factors or conduct alleged to warrant suspension, revocation, annulment, or withdrawal of an educator's certificate and to give the certified educator an opportunity to show that the educator is in compliance with the relevant statutes and rules; TGC, §2001.058(e), which sets out the requirements for when the SBEC can make changes to a proposal for decision from an administrative law judge; TGC, §2001.142(a), which requires all Texas state licensing agencies to notify parties to contested cases of orders or decisions of the agency by personal service, electronic means if the parties have agreed to it, first class, certified or registered mail, or by any method required under the agency's rules for a party to serve copies of pleadings in a contested case; Texas Family Code (TFC), §261.308(d) and (e), which require the Texas Department of Family and Protective Services to release information regarding a person alleged to have committed abuse or neglect to the SBEC; TFC, §261.406(a) and (b), which require the Texas Department of Family and Protective Services to send a copy of a completed investigation report involving allegations of abuse or neglect of a child in a public or private school to the TEA; Texas Occupations Code (TOC), §53.021(a), which allows the SBEC to suspend or revoke an educator's certificate or refuse to issue a certificate, if a person is convicted of certain offenses; TOC, §53.022, which sets out factors for the SBEC to determine whether a particular criminal offense relates to the occupation of education; TOC, §53.023, which sets out additional factors for the SBEC to consider when deciding whether to allow a person convicted of a crime to serve as an educator; TOC, §53.0231, which sets out information the SBEC must give an applicant when it denies a license and requires that the SBEC allow 30 days for the applicant to submit any relevant information to the SBEC; TOC, §53.0232, which precludes SBEC from considering arrests that did not result in convictions or placement on deferred adjudication community supervision in the determination of fitness to be licensed as an educator; TOC, §53.024, which states that proceedings to deny or sanction an educator's certification are covered by the Texas Administrative Procedure Act, Texas Government Code, Chapter 2001; TOC, §53.025, which gives the SBEC rulemaking authority to issue guidelines to define which crimes relate to the profession of education; TOC, §53.051, which requires that the SBEC notify a license holder or applicant after denying, suspending, or revoking the certification; TOC, §53.052, which allows a person who has been denied an educator certification or had their educator certification revoked or suspended to file a petition for review in state district court after exhausting all administrative remedies; TOC, §56.003, which prohibits state agencies from taking disciplinary action against licensees for student loan non-payment or default; and the Every Student Succeeds Act (ESSA), 20 United States Code (U.S.C.) §7926, which requires state educational agencies to make rules forbidding educators from aiding other school employees, contractors, or agents in getting jobs when the educator knows the jobseeker has committed sexual misconduct with a student or minor in violation of the law.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code (TEC), §§21.006(a), (b), (b-1), (b-2), (c), (c-1), (c-2), (f), (g), (g-1), and (i); 21.0062; 21.007; 21.009(e); 21.031(a); 21.035; 21.041(a) and (b)(1), (4), (7), and (8); 21.044(a), 21.058; 21.0581; 21.060; 21.065; 21.105(c); 21.160(c); 21.210(c); 22.082; 22.0831; 22.085; 22.087; 22.092; and 22.093; Texas Government Code (TGC), §§411.090, 2001.054(c), 2001.058(e), and 2001.142(a); Texas Family

Code (TFC), §261.308(d) and (e) and §261.406(a) and (b); Texas Occupations Code (TOC), §§53.021(a), 53.022-53.025, 53.051, 53.052 and 56.003; and the Every Student Succeeds Act (ESSA), 20 United States Code (U.S.C.) §7926.

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

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SUBCHAPTER B. ENFORCEMENT ACTIONS AND GUIDELINES

19 TAC §§249.11 - 249.15, 249.17

STATUTORY AUTHORITY. The amendments are adopted under Texas Education Code (TEC), §§21.006(a)-(c-2), (f)-(g-1), and (i), which require the superintendent or director of a school district, district of innovation, open-enrollment charter school, other charter entity, regional education service center or shared services arrangement to report to the SBEC within seven business days of when the superintendent knew or received a report from a principal that an educator has resigned or is terminated and there is evidence that the educator has engaged in certain misconduct, unless the superintendent or director completes an investigation before the educator resigns or is terminated and determines that the educator did not commit the alleged misconduct. It also requires principals to report to superintendents within seven business days of when the superintendent knew or received a report from a principal that an educator has resigned or is terminated and there is evidence that the educator has engaged in certain misconduct. It further authorizes the SBEC to impose sanctions on educators who fail to report as required by the statute, including authority to impose monetary administrative penalties, gives SBEC rulemaking authority as necessary to implement the statute, and requires the SBEC to create an internet portal to facilitate confidential and secure reporting; TEC, §21.0062, which requires the chief administrative officer of a private school to notify the SBEC within seven days when a private school educator resigns before the completion of an investigation or is terminated and there is evidence that the educator has engaged in certain misconduct and gives the SBEC rulemaking authority to implement the section; TEC, §21.007, which gives the SBEC authority to place a notice that an educator is under investigation for alleged misconduct on the educator's public certification records, requires the SBEC give the educator notice and an opportunity to show cause, requires that the SBEC limit the amount of time the notice can appear on the educator's certification, and gives the SBEC rulemaking authority as necessary to implement the provision; TEC, §21.009(e), which states that the SBEC may revoke the certificate of an administrator if the board determines it is reasonable to believe that the administrator employed an applicant despite being aware that the applicant had been adjudicated for or convicted of having an inappropriate relationship with a student or minor; TEC, §21.031(a), which

charges the SBEC with regulating and overseeing all aspects of the certification, continuing education, and standards of conduct for public school educators; TEC, §21.035, which states that TEA staff provides administrative functions and services for SBEC and gives SBEC the authority to delegate to either the commissioner of education or to TEA staff the authority to settle or otherwise informally dispose of contested cases involving educator certification; TEC, §21.041(a) and (b)(1), (4), (7), and (8), which authorize the SBEC to adopt rules as necessary for its own procedures, to regulate educators, specify the requirements for issuance or renewal of an educator certificate, provide for educator disciplinary proceedings and for enforcement of the educator's code of ethics; TEC, §21.044(a), which authorizes the SBEC to adopt rules establishing training requirements and academic qualifications required for a person to obtain an educator certificate; TEC, §21.058, which requires the SBEC to revoke the certification of an educator convicted or placed on deferred adjudication community supervision for certain offenses; TEC, §21.0581, which authorizes SBEC to take action against a person who assists another person obtain employment at a school despite knowing the other person engaged in sexual misconduct with a minor or student; TEC, §21.060, which sets out crimes that relate to the education profession and authorizes the SBEC to sanction or refuse to issue a certificate to any person who has been convicted of one of these offenses; TEC, §21.065, which sets requirements for the notice SBEC must send when it suspends an educator's certificate; TEC, §21.105(c), which allows the SBEC to impose sanctions against an educator who abandons a probationary contract; TEC, §21.160(c), which allows the SBEC to impose sanctions against an educator who abandons a continuing contract; TEC, §21.210(c), which allows the SBEC to impose sanctions against an educator who abandons a term contract; TEC, §22.082, which requires the SBEC to subscribe to the criminal history clearinghouse and allows the SBEC to obtain any criminal history from any closed case file; TEC, §22.0831, which requires the SBEC to review the criminal history of certified educators and applicants for certification; TEC, §22.085, which requires school districts, charter schools, and shared services arrangements to conduct fingerprint criminal background checks on employees and refuse to hire those that have certain criminal history; TEC, §22.087, which requires superintendents and directors of school districts, charter schools, private schools, regional education service centers, and shared services arrangements to notify the SBEC if an applicant for a certification has criminal history that is not in the criminal history clearinghouse; TEC, §22.092, which requires school districts, charter schools, districts of innovation, regional education service centers, and shared services arrangements to discharge or refuse to hire any person listed on the registry of persons not eligible for employment in Texas public schools; TEC, §22.093, requires superintendents or directors of school districts, districts of innovation, charter schools, regional education service centers, or shared services arrangements to notify the commissioner of education if an employee resigned or was terminated and there is evidence that the employee abused or otherwise committed an unlawful act with a student or minor or was involved in a romantic relationship with a student or minor; Texas Government Code (TGC), §411.090, which allows the SBEC to get from the Texas Department of Public Safety all criminal history record information about any applicant for licensure as an educator; TGC, §2001.054(c), which requires the SBEC to give notice by personal service or by registered or certified mail to the license holder of the factors or conduct alleged to warrant suspension, revocation, annulment, or withdrawal of an educator's certificate and to give the certified

educator an opportunity to show that the educator is in compliance with the relevant statutes and rules; TGC, §2001.058(e), which sets out the requirements for when the SBEC can make changes to a proposal for decision from an administrative law judge; TGC, §2001.142(a), which requires all Texas state licensing agencies to notify parties to contested cases of orders or decisions of the agency by personal service, electronic means if the parties have agreed to it, first class, certified or registered mail, or by any method required under the agency's rules for a party to serve copies of pleadings in a contested case; Texas Family Code (TFC), §261.308(d) and (e), which require the Texas Department of Family and Protective Services to release information regarding a person alleged to have committed abuse or neglect to the SBEC; TFC, §261.406(a) and (b), which require the Texas Department of Family and Protective Services to send a copy of a completed investigation report involving allegations of abuse or neglect of a child in a public or private school to the TEA; Texas Occupations Code (TOC), §53.021(a), which allows the SBEC to suspend or revoke an educator's certificate or refuse to issue a certificate, if a person is convicted of certain offenses; TOC, §53.022, which sets out factors for the SBEC to determine whether a particular criminal offense relates to the occupation of education; TOC, §53.023, which sets out additional factors for the SBEC to consider when deciding whether to allow a person convicted of a crime to serve as an educator; TOC, §53.0231, which sets out information the SBEC must give an applicant when it denies a license and requires that the SBEC allow 30 days for the applicant to submit any relevant information to the SBEC; TOC, §53.0232, which precludes SBEC from considering arrests that did not result in convictions or placement on deferred adjudication community supervision in the determination of fitness to be licensed as an educator; TOC, §53.024, which states that proceedings to deny or sanction an educator's certification are covered by the Texas Administrative Procedure Act, Texas Government Code, Chapter 2001; TOC, §53.025, which gives the SBEC rulemaking authority to issue guidelines to define which crimes relate to the profession of education; TOC, §53.051, which requires that the SBEC notify a license holder or applicant after denying, suspending, or revoking the certification; TOC, §53.052, which allows a person who has been denied an educator certification or had their educator certification revoked or suspended to file a petition for review in state district court after exhausting all administrative remedies; TOC, §56.003, which prohibits state agencies from taking disciplinary action against licensees for student loan non-payment or default; and the Every Student Succeeds Act (ESSA), 20 United States Code (U.S.C.) §7926, which requires state educational agencies to make rules forbidding educators from aiding other school employees, contractors, or agents in getting jobs when the educator knows the jobseeker has committed sexual misconduct with a student or minor in violation of the law.

CROSS REFERENCE TO STATUTE. The amendments implement Texas Education Code (TEC), §§21.006(a), (b), (b-1), (b-2), (c), (c-1), (c-2), (f), (g), (g-1), and (i); 21.0062; 21.007; 21.009(e); 21.031(a); 21.035; 21.041(a) and (b)(1), (4), (7), and (8); 21.044(a), 21.058; 21.0581; 21.060; 21.065; 21.105(c); 21.160(c); 21.210(c); 22.082; 22.0831; 22.085; 22.087; 22.092; and 22.093; Texas Government Code (TGC), §§411.090, 2001.054(c), 2001.058(e), and 2001.142(a); Texas Family Code (TFC), §261.308(d) and (e) and §261.406(a) and (b); Texas Occupations Code (TOC), §§53.021(a), 53.022-53.025, 53.051, 53.052 and 56.003; and the Every Student Succeeds Act (ESSA), 20 United States Code (U.S.C.) §7926.

§249.17. Decision-Making Guidelines.

(a) Purpose. The purpose of these guidelines is to achieve the following objectives:

(1) to provide a framework of analysis for the Texas Education Agency (TEA) staff, the presiding administrative law judge (ALJ), and the State Board for Educator Certification (SBEC) in considering matters under this chapter;

(2) to promote consistency in the exercise of sound discretion by the TEA staff, the presiding ALJ, and the SBEC in seeking, proposing, and making decisions under this chapter; and

(3) to provide guidance for the informal resolution of potentially contested matters.

(b) Construction and application. This section shall be construed and applied so as to preserve SBEC members' discretion in making final decisions under this chapter. This section shall be further construed and applied so as to be consistent with §249.5(b) of this title (relating to Purpose; Policy Governing Disciplinary Proceedings) and this chapter, the Texas Education Code (TEC), and other applicable law, including SBEC decisions and orders.

(c) Consideration. The following factors may be considered in seeking, proposing, or making a decision under this chapter:

- (1) the seriousness of the violation;
- (2) whether the misconduct was premeditated or intentional;
- (3) attempted concealment of misconduct;
- (4) prior misconduct and SBEC sanctions;
- (5) the potential danger the conduct poses to the health and welfare of students;
- (6) the effect of the prior conduct upon any victims of the conduct;
- (7) whether sufficient time has passed and sufficient evidence is presented to demonstrate that the educator or applicant has been rehabilitated from the prior conduct;
- (8) the effect of the conduct upon the educator's good moral character and ability to be a proper role model for students;
- (9) whether the sanction will deter future violations; and
- (10) any other relevant circumstances or facts.

(d) Contract abandonment.

(1) Good cause. The following factors may be considered good cause when an educator is reported to have abandoned a contract in violation of the TEC, §§21.105(c), 21.160(c), or 21.210(c):

(A) serious illness or health condition of the educator or close family member of the educator, as evidenced by documentation from a licensed medical provider;

(B) relocation to a new city as a result of change in employment of the educator's spouse or partner who resides with the educator as supported by documentation;

(C) significant change in the educator's family needs that requires the educator to relocate or to devote more time than allowed by current employment; or

(D) the educator's reasonable belief that the educator had written permission from the school district administration to resign.

(2) Mitigating factors. The following factors shall be considered in seeking, proposing, or making a decision under this chapter regarding an educator who has abandoned a contract in violation of the TEC, §§21.105(c), 21.160(c), or 21.210(c). A reduction of one month in suspension time will be given for each factor established, except for factors in subparagraphs (G)-(I) of this paragraph. The educator:

(A) gave written notice to the school district 30 days or more in advance of the first day of instruction for which the educator will not be present;

(B) assisted the school district in finding a replacement educator to fill the position;

(C) continued to work until the school district hired a replacement educator;

(D) assisted in training the replacement educator;

(E) showed good faith in communications and negotiations with the school district;

(F) provided lesson plans for classes following the educator's resignation;

(G) changed careers within the field of education:

(i) to a position that required a different class of educator certification as defined in §230.33(b) of this title (relating to Classes of Certificates);

(ii) to a position with a higher level of authority within the principal class of certificate; or

(iii) to a position in an open-enrollment charter school or a district of innovation that is equivalent to the positions described in clauses (i) and (ii) of this subparagraph;

(H) had a reduction in base pay, excluding stipends, as compared to the educator's base pay for the prior year at the same school district;

(I) resigned due to working conditions that reasonably posed an immediate threat of significant physical harm to the educator; or

(J) any other relevant circumstances or facts.

(3) Mandatory sanction for contract abandonment.

(A) An educator subject to sanction, who has abandoned a contract 44-30 days prior to the first day of instruction for the following school year in violation of the TEC, §§21.105(c), 21.160(c), or 21.210(c), in a case where the factors listed in subsection (c) of this section or in paragraph (1) or (2)(B)-(J) of this subsection do not mitigate or apply, shall receive a sanction of an inscribed reprimand.

(B) An educator subject to sanction, who has abandoned a contract less than 30 days prior to the first day of instruction for the following school year or at any point during the school year in violation of the TEC, §§21.105(c), 21.160(c), or 21.210(c), in a case where the factors listed in subsection (c) of this section or in paragraph (1) or (2) of this subsection do not mitigate or apply, may not receive a sanction of less than:

(i) suspension for one year from the first day that, without district permission, the educator failed to appear for work under the contract, provided that the educator has not worked as an educator during that year and the case is resolved within that one year through an agreed final order; or

(ii) suspension for one year from either the effective date of an agreed final order resolving the case or an agreed future

date at the beginning of the following school year, if the educator has worked as an educator after abandoning the contract; or

(iii) suspension for one year from the date that the SBEC adopts an order that becomes final following a default under §249.35 of this title (relating to Disposition Prior to Hearing; Default) or a contested case hearing at the State Office of Administrative Hearings (SOAH).

(C) The factors listed in subsection (c) of this section and in paragraphs (1) and (2) of this subsection may mitigate an educator's sanction so significantly that the SBEC takes no disciplinary action.

(e) Mandatory minimum sanction for felony-level conduct. An educator subject to sanction, who is court-ordered to complete a period of deferred adjudication, community supervision, or pretrial diversion for a felony-level criminal offense under state or federal law, may not receive a sanction of less than:

(1) suspension for a period concurrent with the term of deferred adjudication or community supervision, if the case is resolved through an agreed final order prior to the educator completing deferred adjudication or community supervision and the educator has not been employed as an educator during the period of deferred adjudication or community supervision; or

(2) suspension beginning on the effective date of an agreed final order for a period extending beyond the end of the educator's deferred adjudication or community supervision but may be less than the initial court-ordered term of deferred adjudication or community supervision, if the case is resolved through an agreed final order prior to the educator completing deferred adjudication or community supervision and the educator has been employed as an educator during the period of deferred adjudication or community supervision; or

(3) suspension beginning on the effective date of an agreed final order for a period at least half as long as the initial court-ordered term of deferred adjudication or community supervision, if the case is resolved through an agreed final order after the educator has completed deferred adjudication or community supervision; or

(4) suspension for a period equal to the term of deferred adjudication or community supervision that the criminal court initially ordered but beginning from the date of the final board decision, if the case is resolved through a final board decision following a contested case hearing at the SOAH or a default under §249.35 of this title.

(f) Mandatory minimum sanction for misdemeanor-level conduct. If an educator is subject to sanction, and a court has ordered the educator to complete a period of deferred adjudication, community supervision, or pretrial diversion for a misdemeanor-level criminal offense under state or federal law, the educator may not receive a sanction of less than an inscribed reprimand.

(g) Mandatory minimum sanction for test security violation. An educator who intentionally, as defined in §247.1 of this title (relating to Purpose and Scope; Definitions), violates the security or confidential integrity of any test required by the TEC, Chapter 39, Subchapter B, in a manner described by §101.3031(a)(3) of Part 2 of this title (relating to Required Test Administration Procedures and Training Activities to Ensure Validity, Reliability, and Security of Assessments), may not receive a sanction of less than a one year suspension.

(h) Mandatory minimum sanction for drugs and alcohol on school campus. An educator who is subject to sanction because the educator has tested positive for drugs or alcohol while on school campus, was under the influence of drugs or alcohol on school campus, or was in possession of drugs or alcohol on school campus may not receive a

sanction of less than a one-year suspension and required completion of a drug or alcohol treatment program.

(i) Mandatory permanent revocation or denial. Notwithstanding subsection (c) of this section, the SBEC shall permanently revoke the teaching certificate of any educator or permanently deny the application of any applicant if, after a contested case hearing or a default under §249.35 of this title, it is determined that the educator or applicant:

- (1) engaged in any sexual contact or romantic relationship with a student or minor;
- (2) solicited any sexual contact or romantic relationship with a student or minor;
- (3) possessed or distributed child pornography;
- (4) was registered as a sex offender;
- (5) committed criminal homicide;
- (6) transferred, sold, distributed, or conspired to possess, transfer, sell, or distribute any controlled substance, the possession of which would be at least a Class A misdemeanor under the Texas Health and Safety Code, Chapter 481, on school property;
- (7) intentionally, knowingly, or recklessly causes bodily injury to a student or minor when the conduct of the educator or applicant is not immune from disciplinary proceedings by TEC, §22.0512; or
- (8) committed any offense described in the TEC, §21.058.

(j) Mandatory minimum for failure to report. An educator subject to sanction, who fails to report educator misconduct under the circumstances and in the manner required by the TEC, §21.006, and §249.14(d)-(f) of this title (relating to Complaint, Required Reporting, and Investigation; Investigative Notice; Filing of Petition), when the case is resolved through an agreed final order, may not receive a sanction of less than:

- (1) an inscribed reprimand and a \$5,000 administrative penalty for a superintendent or director who fails to file timely a report to the SBEC; or
- (2) an inscribed reprimand and a \$500 administrative penalty for a principal who fails to timely notify a superintendent or director.

(k) Mandatory minimum for electioneering. An educator subject to sanction, who is court-ordered to complete a period of deferred adjudication, community supervision, or pretrial diversion for an offense under Texas Election Code, Chapter 255, may not receive a sanction of less than a one-year suspension.

(l) Sanctioned misconduct in another state. The findings of fact contained in final orders from any other state jurisdiction may provide the factual basis for SBEC disciplinary action. If the underlying conduct for the administrative sanction of an educator's certificate or license issued in another state is a violation of SBEC rules, the SBEC may initiate a disciplinary action regarding the educator's Texas educator certificate and impose a sanction as provided under this chapter.

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

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Director, Rulemaking

State Board for Educator Certification

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



SUBCHAPTER C. PREHEARING MATTERS

19 TAC §249.26, §249.27

STATUTORY AUTHORITY. The amendments are adopted under Texas Education Code (TEC), §§21.006(a)-(c-2), (f)-(g-1), and (i), which require the superintendent or director of a school district, district of innovation, open-enrollment charter school, other charter entity, regional education service center or shared services arrangement to report to the SBEC within seven business days of when the superintendent knew or received a report from a principal that an educator has resigned or is terminated and there is evidence that the educator has engaged in certain misconduct, unless the superintendent or director completes an investigation before the educator resigns or is terminated and determines that the educator did not commit the alleged misconduct. It also requires principals to report to superintendents within seven business days of when the superintendent knew or received a report from a principal that an educator has resigned or is terminated and there is evidence that the educator has engaged in certain misconduct. It further authorizes the SBEC to impose sanctions on educators who fail to report as required by the statute, including authority to impose monetary administrative penalties, gives SBEC rulemaking authority as necessary to implement the statute, and requires the SBEC to create an internet portal to facilitate confidential and secure reporting; TEC, §21.0062, which requires the chief administrative officer of a private school to notify the SBEC within seven days when a private school educator resigns before the completion of an investigation or is terminated and there is evidence that the educator has engaged in certain misconduct and gives the SBEC rulemaking authority to implement the section; TEC, §21.007, which gives the SBEC authority to place a notice that an educator is under investigation for alleged misconduct on the educator's public certification records, requires the SBEC give the educator notice and an opportunity to show cause, requires that the SBEC limit the amount of time the notice can appear on the educator's certification, and gives the SBEC rulemaking authority as necessary to implement the provision; TEC, §21.009(e), which states that the SBEC may revoke the certificate of an administrator if the board determines it is reasonable to believe that the administrator employed an applicant despite being aware that the applicant had been adjudicated for or convicted of having an inappropriate relationship with a student or minor; TEC, §21.031(a), which charges the SBEC with regulating and overseeing all aspects of the certification, continuing education, and standards of conduct for public school educators; TEC, §21.035, which states that TEA staff provides administrative functions and services for SBEC and gives SBEC the authority to delegate to either the commissioner of education or to TEA staff the authority to settle or otherwise informally dispose of contested cases involving educator certification; TEC, §21.041(a) and (b)(1), (4), (7), and (8), which authorizes the SBEC to adopt rules as necessary for its own procedures, to regulate educators, specify the requirements for issuance or renewal of an educator certificate, provide for educator disciplinary proceedings and for enforcement of the

educator's code of ethics; TEC, §21.044(a), which authorizes the SBEC to adopt rules establishing training requirements and academic qualifications required for a person to obtain an educator certificate; TEC, §21.058, which requires the SBEC to revoke the certification of an educator convicted or placed on deferred adjudication community supervision for certain offenses; TEC, §21.0581, which authorizes SBEC to take action against a person who assists another person obtain employment at a school despite knowing the other person engaged in sexual misconduct with a minor or student; TEC, §21.060, which sets out crimes that relate to the education profession and authorizes the SBEC to sanction or refuse to issue a certificate to any person who has been convicted of one of these offenses; TEC, §21.065, which sets requirements for the notice SBEC must send when it suspends an educator's certificate; TEC, §21.105(c), which allows the SBEC to impose sanctions against an educator who abandons a probationary contract; TEC, §21.160(c), which allows the SBEC to impose sanctions against an educator who abandons a continuing contract; TEC, §21.210(c), which allows the SBEC to impose sanctions against an educator who abandons a term contract; TEC, §22.082, which requires the SBEC to subscribe to the criminal history clearinghouse and allows the SBEC to obtain any criminal history from any closed case file; TEC, §22.0831, which requires the SBEC to review the criminal history of certified educators and applicants for certification; TEC, §22.085, which requires school districts, charter schools, and shared services arrangements to conduct fingerprint criminal background checks on employees and refuse to hire those that have certain criminal history; TEC, §22.087, which requires superintendents and directors of school districts, charter schools, private schools, regional education service centers, and shared services arrangements to notify the SBEC if an applicant for a certification has criminal history that is not in the criminal history clearinghouse; TEC, §22.092, which requires school districts, charter schools, districts of innovation, regional education service centers, and shared services arrangements to discharge or refuse to hire any person listed on the registry of persons not eligible for employment in Texas public schools; TEC, §22.093, requires superintendents or directors of school districts, districts of innovation, charter schools, regional education service centers, or shared services arrangements to notify the commissioner of education if an employee resigned or was terminated and there is evidence that the employee abused or otherwise committed an unlawful act with a student or minor or was involved in a romantic relationship with a student or minor; Texas Government Code (TGC), §411.090, which allows the SBEC to get from the Texas Department of Public Safety all criminal history record information about any applicant for licensure as an educator; TGC, §2001.054(c), which requires the SBEC to give notice by personal service or by registered or certified mail to the license holder of the factors or conduct alleged to warrant suspension, revocation, annulment, or withdrawal of an educator's certificate and to give the certified educator an opportunity to show that the educator is in compliance with the relevant statutes and rules; TGC, §2001.058(e), which sets out the requirements for when the SBEC can make changes to a proposal for decision from an administrative law judge; TGC, §2001.142(a), which requires all Texas state licensing agencies to notify parties to contested cases of orders or decisions of the agency by personal service, electronic means if the parties have agreed to it, first class, certified or registered mail, or by any method required under the agency's rules for a party to serve copies of pleadings in a contested case; Texas Family Code (TFC), §261.308(d) and (e), which require the Texas

Department of Family and Protective Services to release information regarding a person alleged to have committed abuse or neglect to the SBEC; TFC, §261.406(a) and (b), which require the Texas Department of Family and Protective Services to send a copy of a completed investigation report involving allegations of abuse or neglect of a child in a public or private school to the TEA; Texas Occupations Code (TOC), §53.021(a), which allows the SBEC to suspend or revoke an educator's certificate or refuse to issue a certificate, if a person is convicted of certain offenses; TOC, §53.022, which sets out factors for the SBEC to determine whether a particular criminal offense relates to the occupation of education; TOC, §53.023, which sets out additional factors for the SBEC to consider when deciding whether to allow a person convicted of a crime to serve as an educator; TOC, §53.0231, which sets out information the SBEC must give an applicant when it denies a license and requires that the SBEC allow 30 days for the applicant to submit any relevant information to the SBEC; TOC, §53.0232, which precludes SBEC from considering arrests that did not result in convictions or placement on deferred adjudication community supervision in the determination of fitness to be licensed as an educator; TOC, §53.024, which states that proceedings to deny or sanction an educator's certification are covered by the Texas Administrative Procedure Act, Texas Government Code, Chapter 2001; TOC, §53.025, which gives the SBEC rulemaking authority to issue guidelines to define which crimes relate to the profession of education; TOC, §53.051, which requires that the SBEC notify a license holder or applicant after denying, suspending, or revoking the certification; TOC, §53.052, which allows a person who has been denied an educator certification or had their educator certification revoked or suspended to file a petition for review in state district court after exhausting all administrative remedies; TOC, §56.003, which prohibits state agencies from taking disciplinary action against licensees for student loan non-payment or default; and the Every Student Succeeds Act (ESSA), 20 United States Code (U.S.C.) §7926, which requires state educational agencies to make rules forbidding educators from aiding other school employees, contractors, or agents in getting jobs when the educator knows the jobseeker has committed sexual misconduct with a student or minor in violation of the law.

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

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SUBCHAPTER E. POST-HEARING MATTERS

19 TAC §249.37

STATUTORY AUTHORITY. The amendment is adopted under Texas Education Code (TEC), §§21.006(a)-(c-2), (f)-(g-1), and (i), which require the superintendent or director of a school district, district of innovation, open-enrollment charter school, other charter entity, regional education service center or shared services arrangement to report to the SBEC within seven business days of when the superintendent knew or received a report from a principal that an educator has resigned or is terminated and there is evidence that the educator has engaged in certain misconduct, unless the superintendent or director completes an investigation before the educator resigns or is terminated and determines that the educator did not commit the alleged misconduct. It also requires principals to report to superintendents within seven business days of when the superintendent knew or received a report from a principal that an educator has resigned or is terminated and there is evidence that the educator has engaged in certain misconduct. It further authorizes the SBEC to impose sanctions on educators who fail to report as required by the statute, including authority to impose monetary administrative penalties, gives SBEC rulemaking authority as necessary to implement the statute, and requires the SBEC to create an internet portal to facilitate confidential and secure reporting; TEC, §21.0062, which requires the chief administrative officer of a private school to notify the SBEC within seven days when a private school educator resigns before the completion of an investigation or is terminated and there is evidence that the educator has engaged in certain misconduct and gives the SBEC rulemaking authority to implement the section; TEC, §21.007, which gives the SBEC authority to place a notice that an educator is under investigation for alleged misconduct on the educator's public certification records, requires the SBEC give the educator notice and an opportunity to show cause, requires that the SBEC limit the amount of time the notice can appear on the educator's certification, and gives the SBEC rulemaking authority as necessary to implement the provision; TEC, §21.009(e), which states that the SBEC may revoke the certificate of an administrator if the board determines it is reasonable to believe that the administrator employed an applicant despite being aware that the applicant had been adjudicated for or convicted of having an inappropriate relationship with a student or minor; TEC, §21.031(a), which charges the SBEC with regulating and overseeing all aspects of the certification, continuing education, and standards of conduct for public school educators; TEC, §21.035, which states that TEA staff provides administrative functions and services for SBEC and gives SBEC the authority to delegate to either the commissioner of education or to TEA staff the authority to settle or otherwise informally dispose of contested cases involving educator certification; TEC, §21.041(a) and (b)(1), (4), (7), and (8), which authorize the SBEC to adopt rules as necessary for its own procedures, to regulate educators, specify the requirements for issuance or renewal of an educator certificate, provide for educator disci-

plinary proceedings and for enforcement of the educator's code of ethics; TEC, §21.044(a), which authorizes the SBEC to adopt rules establishing training requirements and academic qualifications required for a person to obtain an educator certificate; TEC, §21.058, which requires the SBEC to revoke the certification of an educator convicted or placed on deferred adjudication community supervision for certain offenses; TEC, §21.0581, which authorizes SBEC to take action against a person who assists another person obtain employment at a school despite knowing the other person engaged in sexual misconduct with a minor or student; TEC, §21.060, which sets out crimes that relate to the education profession and authorizes the SBEC to sanction or refuse to issue a certificate to any person who has been convicted of one of these offenses; TEC, §21.065, which sets requirements for the notice SBEC must send when it suspends an educator's certificate; TEC, §21.105(c), which allows the SBEC to impose sanctions against an educator who abandons a probationary contract; TEC, §21.160(c), which allows the SBEC to impose sanctions against an educator who abandons a continuing contract; TEC, §21.210(c), which allows the SBEC to impose sanctions against an educator who abandons a term contract; TEC, §22.082, which requires the SBEC to subscribe to the criminal history clearinghouse and allows the SBEC to obtain any criminal history from any closed case file; TEC, §22.0831, which requires the SBEC to review the criminal history of certified educators and applicants for certification; TEC, §22.085, which requires school districts, charter schools, and shared services arrangements to conduct fingerprint criminal background checks on employees and refuse to hire those that have certain criminal history; TEC, §22.087, which requires superintendents and directors of school districts, charter schools, private schools, regional education service centers, and shared services arrangements to notify the SBEC if an applicant for a certification has criminal history that is not in the criminal history clearinghouse; TEC, §22.092, which requires school districts, charter schools, districts of innovation, regional education service centers, and shared services arrangements to discharge or refuse to hire any person listed on the registry of persons not eligible for employment in Texas public schools; TEC, §22.093, requires superintendents or directors of school districts, districts of innovation, charter schools, regional education service centers, or shared services arrangements to notify the commissioner of education if an employee resigned or was terminated and there is evidence that the employee abused or otherwise committed an unlawful act with a student or minor or was involved in a romantic relationship with a student or minor; Texas Government Code (TGC), §411.090, which allows the SBEC to get from the Texas Department of Public Safety any criminal history record information about any applicant for licensure as an educator; TGC, §2001.054(c), which requires the SBEC to give notice by personal service or by registered or certified mail to the license holder of the factors or conduct alleged to warrant suspension, revocation, annulment, or withdrawal of an educator's certificate and to give the certified educator an opportunity to show that the educator is in compliance with the relevant statutes and rules; TGC, §2001.058(e), which sets out the requirements for when the SBEC can make changes to a proposal for decision from an administrative law judge; TGC, §2001.142(a), which requires all Texas state licensing agencies to notify parties to contested cases of orders or decisions of the agency by personal service, electronic means if the parties have agreed to it, first class, certified or registered mail, or by any method required under the agency's rules for a party to serve copies of pleadings in a contested case; Texas Family Code

(TFC), §261.308(d) and (e), which require the Texas Department of Family and Protective Services to release information regarding a person alleged to have committed abuse or neglect to the SBEC; TFC, §261.406(a) and (b), which require the Texas Department of Family and Protective Services to send a copy of a completed investigation report involving allegations of abuse or neglect of a child in a public or private school to the TEA; Texas Occupations Code (TOC), §53.021(a), which allows the SBEC to suspend or revoke an educator's certificate or refuse to issue a certificate, if a person is convicted of certain offenses; TOC, §53.022, which sets out factors for the SBEC to determine whether a particular criminal offense relates to the occupation of education; TOC, §53.023, which sets out additional factors for the SBEC to consider when deciding whether to allow a person convicted of a crime to serve as an educator; TOC, §53.0231, which sets out information the SBEC must give an applicant when it denies a license and requires that the SBEC allow 30 days for the applicant to submit any relevant information to the SBEC; TOC, §53.0232, which precludes SBEC from considering arrests that did not result in convictions or placement on deferred adjudication community supervision in the determination of fitness to be licensed as an educator; TOC, §53.024, which states that proceedings to deny or sanction an educator's certification are covered by the Texas Administrative Procedure Act, Texas Government Code, Chapter 2001; TOC, §53.025, which gives the SBEC rulemaking authority to issue guidelines to define which crimes relate to the profession of education; TOC, §53.051, which requires that the SBEC notify a license holder or applicant after denying, suspending, or revoking the certification; TOC, §53.052, which allows a person who has been denied an educator certification or had their educator certification revoked or suspended to file a petition for review in state district court after exhausting all administrative remedies; TOC, §56.003, which prohibits state agencies from taking disciplinary action against licensees for student loan non-payment or default; and the Every Student Succeeds Act (ESSA), 20 United States Code (U.S.C.) §7926, which requires state educational agencies to make rules forbidding educators from aiding other school employees, contractors, or agents in getting jobs when the educator knows the jobseeker has committed sexual misconduct with a student or minor in violation of the law.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code (TEC), §§21.006(a), (b), (b-1), (b-2), (c), (c-1), (c-2), (f), (g), (g-1), and (i); 21.0062; 21.007; 21.009(e); 21.031(a); 21.035; 21.041(a) and (b)(1), (4), (7), and (8); 21.044(a), 21.058; 21.0581; 21.060; 21.065; 21.105(c); 21.160(c); 21.210(c); 22.082; 22.0831; 22.085; 22.087; 22.092; and 22.093; Texas Government Code (TGC), §§411.090, 2001.054(c), 2001.058(e), and 2001.142(a); Texas Family Code (TFC), §261.308(d) and (e) and §261.406(a) and (b); Texas Occupations Code (TOC), §§53.021(a), 53.022-53.025, 53.051, 53.052 and 56.003; and the Every Student Succeeds Act (ESSA), 20 United States Code (U.S.C.) §7926.

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

Filed with the Office of the Secretary of State on April 28, 2025.
TRD-202501397

Cristina De La Fuente-Valadez
Director, Rulemaking
State Board for Educator Certification
Effective date: May 18, 2025
Proposal publication date: January 10, 2025
For further information, please call: (512) 475-1497

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TITLE 22. EXAMINING BOARDS

PART 24. TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS

CHAPTER 571. LICENSING SUBCHAPTER A. GENERAL

22 TAC §571.7

The Texas Commission of Licensing and Regulation (Commission), on behalf of the Texas Board of Veterinary Medical Examiners (TBVME), adopts an amendment to an existing rule at 22 Texas Administrative Code (TAC), Chapter 571, Subchapter A, §571.7, regarding Licensing, without changes to the proposed text as published in the November 15, 2024, issue of the *Texas Register* (49 TexReg 9181). This rule will not be republished.

EXPLANATION OF AND JUSTIFICATION FOR THE RULES

The rules under 22 TAC, Chapter 571, implement Texas Occupations Code, Chapter 801, Veterinary Licensing Act.

The proposed rule extends the time period in which an applicant for a veterinary license who has not yet graduated from veterinary medical school must obtain a document confirming their expected graduation date in order to apply for the State Board Examination (SBE) from 60 days to 120 days. This proposed rule change was suggested by a major stakeholder, Texas Tech University School of Veterinary Medicine (Texas Tech), to align with their schedule for students in their final year of school. Texas Tech fourth-year students spend most of their year at externships throughout the state but return to the campus in February of the year they graduate. Texas Tech, in an attempt to limit costs to their students, wants to proctor a SBE for their graduating students in February while the students are all on campus. By allowing the students to obtain a document confirming their expected graduation date 120 days prior to graduation, this allows Texas Tech students to take the SBE on campus in February prior to their graduation. This change will also benefit all graduating veterinary students, both in-state and out-of-state, in that it allows them to take the SBE sooner.

SECTION-BY-SECTION SUMMARY

The adopted rule amends §571.7(f)(1) to extend the time period in which an applicant for a veterinary license who has not yet graduated from veterinary medical school must obtain a document confirming their expected graduation date in order to apply for the State Board Examination (SBE) from 60 days to 120 days.

PUBLIC COMMENTS

The proposed rule was published in the November 15, 2024, issue of the *Texas Register* (49 TexReg 9181). The public comment period closed on December 16, 2024. The Department did not receive any comments from interested parties on the proposed rule.

BOARD RECOMMENDATIONS AND COMMISSION ACTION

The Texas Board of Veterinary Medical Examiners met on February 20, 2025, to discuss the proposed rule. The Board recommended that the Commission adopt the proposed rule as published in the *Texas Register*. At its meeting on April 9, 2025, the Commission adopted the proposed rules as recommended by the Advisory Board.

STATUTORY AUTHORITY

The adopted rule is adopted under the authority of Texas Occupations Code, Chapters 51 and 801, which authorizes the Texas Commission of Licensing and Regulation, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the adopted rule are those set forth in Texas Occupations Code, Chapters 51 and 801. No other statutes, articles, or codes are affected by the adopted rules.

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

Filed with the Office of the Secretary of State on April 25, 2025.

TRD-202501349

Doug Jennings

General Counsel

Texas Board of Veterinary Medical Examiners

Effective date: May 15, 2025

Proposal publication date: November 15, 2024

For further information, please call: (512) 475-4879



TITLE 26. HEALTH AND HUMAN SERVICES

PART 1. HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 259. COMMUNITY LIVING ASSISTANCE AND SUPPORT SERVICES (CLASS) PROGRAM AND COMMUNITY FIRST CHOICE (CFC) SERVICES

The Texas Health and Human Services Commission (HHSC) adopts amendments to §259.61, concerning Process for Enrollment of an Individual; §259.79, concerning Renewal and Revision of an IPC; §259.309, concerning Training of CMA Staff Persons and Volunteers; §259.317 concerning CMA: Reporting Allegations of Abuse, Neglect, or Exploitation of an Individual; §259.357, concerning Training of DSA Staff Persons, Service Providers, and Volunteers; and §259.369, concerning DSA: Reporting Allegations of Abuse, Neglect, or Exploitation of an Individual.

The amendments to §§259.61, 259.79, 259.309, 259.317, 259.357 and 259.369 are adopted without changes to the proposed text as published in the November 1, 2024, issue of the *Texas Register* (49 TexReg 8678). These rules will not be republished.

BACKGROUND AND JUSTIFICATION

The amendments are necessary to comply with Texas Human Resources Code §48.051(b-1), added by House Bill (H.B.) 4696, 88th Legislature, Regular Session, 2023. Section 48.051 requires a person, including an officer, employee, agent, contractor, or subcontractor of a home and community support services agency (HCSSA) licensed under Texas Health and Safety Code Chapter 142, who has cause to believe that an individual receiving services from the HCSSA, is being or has been subjected to abuse, neglect, or exploitation (ANE), to immediately report it to HHSC.

A direct service agency (DSA) in the CLASS Program must be licensed as a HCSSA and a CLASS case management agency (CMA) may be licensed as a HCSSA. To comply with Section 48.501, the amendments change the current CLASS Program ANE reporting requirement from the Texas Department of Family and Protective Services (DFPS) to HHSC. Transferring the function relating to the intake of reports of ANE from DFPS to HHSC creates a more streamlined process because HHSC is currently responsible for investigating these reports in the CLASS Program.

The amendments to the rules for CLASS CMAs and CLASS DSAs remove all references to DFPS, the DFPS Abuse Hotline toll-free telephone number, and the DFPS Abuse Hotline website and replaces them with references to HHSC, the HHSC toll-free telephone number, and the HHSC online Texas Unified Licensure Information Portal. The amendments to §259.61 and §259.79 replace a reference to Texas Administrative Code (TAC) Title 40, §49.309, that was administratively transferred to TAC Title 26, §52.117, relating to Complaint Process.

COMMENTS

The 31-day comment period ended December 2, 2024.

During this period, HHSC did not receive any comments regarding the proposed rules.

SUBCHAPTER B. ELIGIBILITY, ENROLLMENT, AND REVIEW DIVISION 2. ENROLLMENT PROCESS, PERSON-CENTERED SERVICE PLANNING, AND REQUIREMENTS FOR HOME AND COMMUNITY-BASED SETTINGS

26 TAC §259.61

STATUTORY AUTHORITY

The amendment is adopted under Texas Government Code §531.0055, 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; Texas Government Code §531.033, which provides the Executive Commissioner of HHSC with broad rulemaking authority; and Texas Human Resources Code §32.021, which provides HHSC with the authority to administer the federal medical assistance program in Texas and to adopt rules and standards for program administration.

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

Filed with the Office of the Secretary of State on April 23, 2025.

TRD-202501310
Karen Ray
Chief Counsel
Health and Human Services Commission
Effective date: May 13, 2025
Proposal publication date: November 1, 2024
For further information, please call: (512) 438-2910



DIVISION 3. REVIEWS

26 TAC §259.79

STATUTORY AUTHORITY

The amendment is adopted under Texas Government Code §531.0055, 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; Texas Government Code §531.033, which provides the Executive Commissioner of HHSC with broad rulemaking authority; and Texas Human Resources Code §32.021, which provides HHSC with the authority to administer the federal medical assistance program in Texas and to adopt rules and standards for program administration.

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

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Karen Ray
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For further information, please call: (512) 438-2910



SUBCHAPTER G. ADDITIONAL CMA REQUIREMENTS

26 TAC §259.309, §259.317

STATUTORY AUTHORITY

The amendments are adopted under Texas Government Code §531.0055, 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; Texas Government Code §531.033, which provides the Executive Commissioner of HHSC with broad rulemaking authority; and Texas Human Resources Code §32.021, which provides HHSC with the authority to administer the federal medical assistance program in Texas and to adopt rules and standards for program administration.

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

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Karen Ray
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SUBCHAPTER H. ADDITIONAL DSA REQUIREMENTS

26 TAC §259.357, §259.369

STATUTORY AUTHORITY

The amendments are adopted under Texas Government Code §531.0055, 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; Texas Government Code §531.033, which provides the Executive Commissioner of HHSC with broad rulemaking authority; and Texas Human Resources Code §32.021, which provides HHSC with the authority to administer the federal medical assistance program in Texas and to adopt rules and standards for program administration.

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

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Karen Ray
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TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 5. TEXAS BOARD OF PARDONS AND PAROLES

CHAPTER 148. SEX OFFENDER CONDITIONS OF PAROLE OR MANDATORY SUPERVISION

37 TAC §§148.41 - 148.43, 148.45, 148.48, 148.50 - 148.55

The Texas Board of Pardons and Paroles adopts amendments to 37 TAC Chapter 148, §§148.41 - 148.43, 148.45, 148.48, and 148.50 - 148.55, concerning sex offender conditions of parole or mandatory supervision. The rules are adopted without changes to the proposed text as published in the January 24, 2025, issue of the *Texas Register* (50 TexReg 527). The text of the rules will not be republished.

The amendments are adopted to provide edits for uniformity and consistency throughout the rules; and to clarify Board requirements concerning ex parte consultations and witnesses in the sex offender conditions hearing process.

No public comments were received regarding adoption of these amendments.

The amended rules are adopted pursuant to §§508.036(b), 508.0441, 508.045, and 508.228, Government Code. Section 508.036(b) authorizes the Board to adopt rules relating to the decision-making processes used by the Board and parole panels. Section 508.0441 authorizes the board to adopt reasonable rules as proper or necessary relating to the eligibility of an offender for release to parole or mandatory supervision and to act on matters of release to parole or mandatory supervision. Section 508.045 authorizes a parole panel to grant or deny parole, revoke parole or mandatory supervision, and conduct revocation hearings. Section 508.228 authorizes a parole panel to impose sex offender conditions after a hearing for offenses where a sex offense occurred during the commission of the offense.

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

Filed with the Office of the Secretary of State on April 25, 2025.

TRD-202501368

Bettie Wells

General Counsel

Texas Board of Pardons and Paroles

Effective date: May 15, 2025

Proposal publication date: January 24, 2025

For further information, please call: (512) 406-5388



CHAPTER 150. MEMORANDUM OF UNDERSTANDING AND BOARD POLICY STATEMENTS

SUBCHAPTER A. PUBLISHED POLICIES OF THE BOARD

37 TAC §150.55

The Texas Board of Pardons and Paroles adopts amendments to 37 TAC Chapter 150, Memorandum of Understanding and Board Policy Statements. The amendments are adopted without change to the proposed text as published in the January 24, 2025, edition of the *Texas Register* (50 TexReg 530). The amendments are adopted to address grammatical changes and sentence structure for uniformity and consistency throughout the rules. The text of the rules will not be republished.

No public comments were received regarding adoption of these amendments.

The amended rules are adopted under Texas Government Code, Title 5. Open Government, Subtitle B, Ethics, Chapter 572 and Section 508.0441. Subtitle B, Ethics, Chapter 572, is the ethics policy of this state for state officers or state employees. Section 508.0441 requires the Board to implement a policy under which a Board member or Parole Commissioner should disqualify himself or herself on parole or mandatory supervision decisions. Section 508.035, Government Code, designates the presiding officer to establish policies and procedures to further the efficient administration of the business of the board.

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

Filed with the Office of the Secretary of State on April 25, 2025.

TRD-202501369

Bettie Wells

General Counsel

Texas Board of Pardons and Paroles

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Proposal publication date: January 24, 2025

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PART 15. TEXAS FORENSIC SCIENCE COMMISSION

CHAPTER 651. DNA, CODIS, FORENSIC ANALYSIS, AND CRIME LABORATORIES SUBCHAPTER C. FORENSIC ANALYST LICENSING PROGRAM

37 TAC §651.222

The Texas Forensic Science Commission (Commission) adopts, without changes to the text as proposed in the February 28, 2025, issue of the *Texas Register* (50 TexReg 1651), amendments to 37 Texas Administrative Code Chapter §651.222, Voluntary Licensure Forensic Analyst and Technician Licensing Requirements, to qualify all versions of the Texas Commission on Law Enforcement (TCOLE) Course Number 2106 Intermediate Crime Scene revised or established prior to or after 2019, as long as the course is taught by a TCOLE-certified instructor or subject matter expert approved by the Commission. The rule changes also correct the title of the section to Voluntary Forensic Analyst and Technician Licensing Requirements.

Background and Justification. The adopted amendments qualify crime scene applicants who took the TCOLE 2106 course before 2019 for voluntary licensure by the Commission. Under the current rules, only the 2019 or later courses fulfill this requirement.

Public Comment. Pursuant to § 2001.029 of the Texas Government Code, the Commission gave all interested persons a reasonable opportunity to provide oral and/or written comments concerning the adoption of the rules. The public comment period began on May 1, 2025, and ended on April 1, 2025. The Commission did not receive any comments.

Statutory Authority. The rule amendments are proposed under the general rulemaking authority provided in Code of Criminal Procedure, Article 38.01 §3-a and its authority to license forensic analysts under §4-a(b).

Cross reference to statute. The proposal affects Tex. Code Crim. Proc. art. 38.01.

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

Filed with the Office of the Secretary of State on April 22, 2025.

TRD-202501301

Leigh Tomlin
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Effective date: May 12, 2025
Proposal publication date: February 28, 2025
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