

# 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 19. EDUCATION

### PART 2. TEXAS EDUCATION AGENCY

#### CHAPTER 55. DATA GOVERNANCE AND REPORTING THROUGH AN AUTOMATED SYSTEM

##### 19 TAC §55.1001

The Texas Education Agency (TEA) adopts new §55.1001, concerning Public Education Information Management System (PEIMS) data and reporting standards. The new section is adopted without changes to the proposed text as published in the March 21, 2025 issue of the *Texas Register* (50 TexReg 2017) and will not be republished. The new section relocates existing standards from 19 TAC §61.1025 with no changes to the content of the rule.

REASONED JUSTIFICATION: New §55.1001 moves existing language from 19 TAC §61.1025, which relates to PEIMS data and reporting standards. The relocation is necessary due to a comprehensive reorganization of 19 TAC Chapter 61. No changes from the existing rule were proposed.

SUMMARY OF COMMENTS AND AGENCY RESPONSES: The public comment period on the proposal began March 21, 2025, and ended April 21, 2025. No public comments were received.

STATUTORY AUTHORITY. The new section is adopted under Texas Education Code (TEC), §48.008, which establishes the Public Education Information Management System (PEIMS), a system school districts shall use to report information to the agency; and TEC, §48.009, which specifies certain required reporting by school districts through PEIMS.

CROSS REFERENCE TO STATUTE. The new section implements Texas Education Code, §48.008 and §48.009.

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 May 19, 2025.

TRD-202501715

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

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



## CHAPTER 61. SCHOOL DISTRICTS

### SUBCHAPTER BB. COMMISSIONER'S RULES ON REPORTING REQUIREMENTS

#### 19 TAC §61.1025

The Texas Education Agency (TEA) adopts the repeal of §61.1025, concerning Public Education Information Management System (PEIMS) data and reporting standards. The repeal is adopted without changes to the proposed text as published in the March 21, 2025 issue of the *Texas Register* (50 TexReg 2019) and will not be republished. The repeal relocates the existing standards to new 19 TAC §55.1001 with no changes to the content of the rule.

REASONED JUSTIFICATION: Section 61.1025 outlines data and reporting standards for PEIMS. The repeal of §61.1025 moves the existing language to new §55.1001. The relocation is necessary due to a comprehensive reorganization of 19 TAC Chapter 61.

SUMMARY OF COMMENTS AND AGENCY RESPONSES: The public comment period on the proposal began March 21, 2025, and ended April 21, 2025. No public comments were received.

STATUTORY AUTHORITY. The repeal is adopted under Texas Education Code (TEC), §48.008, which establishes the Public Education Information Management System (PEIMS), a system school districts shall use to report information to the agency; and TEC, §48.009, which specifies certain required reporting by school districts through PEIMS.

CROSS REFERENCE TO STATUTE. The repeal implements Texas Education Code, §48.008 and §48.009.

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 66. STATE ADOPTION AND DISTRIBUTION OF INSTRUCTIONAL MATERIALS

## SUBCHAPTER CC. COMMISSIONER'S RULES CONCERNING INSTRUCTIONAL MATERIALS AND TECHNOLOGY ALLOTMENT

### 19 TAC §66.1307

The Texas Education Agency (TEA) adopts the repeal of §66.1307, concerning the Instructional Materials and Technology Allotment. The repeal is adopted without changes to the proposed text as published in the March 7, 2025 issue of the *Texas Register* (50 TexReg 1750) and will not be republished. The adopted repeal moves the Instructional Materials and Technology Allotment rule to adopted new 19 TAC §67.1001.

**REASONED JUSTIFICATION:** House Bill 1605, 88th Texas Legislature, Regular Session, 2023, significantly revised Texas Education Code, Chapter 31, related to instructional materials. The adopted repeal of §66.1307 removes provisions related to the Instructional Materials and Technology Allotment that are being replaced by adopted new 19 TAC §67.1001. Adopted new §67.1001 clarifies the allowable uses of funds in alignment with HB 1605.

**SUMMARY OF COMMENTS AND AGENCY RESPONSES:** The public comment period on the proposal began March 7, 2025, and ended April 7, 2025. Following is a summary of the public comment received and the agency response.

**Comment:** An individual commented that teachers are burdened with excessive duties while being stripped of their authority and that administrations should let them focus on teaching and treat them as professionals. The commenter also stated that teachers should have budgets for classroom supplies and support for creating lesson plans, alongside fair compensation and minimized state testing pressures. The commenter suggested that restoring discipline, providing assistants, and addressing workload challenges are key steps to ensuring teachers are respected, supported, and empowered in their roles.

**Response:** This comment is outside the scope of the proposed rulemaking.

**STATUTORY AUTHORITY.** The repeal is adopted under Texas Education Code (TEC), §31.0211, as amended by House Bill (HB) 1605 and HB 4595, 88th Texas Legislature, Regular Session, 2023, which permits the commissioner to adopt rules regarding the instructional materials and technology allotment, including the amount of the per-student allotment, the authorization of juvenile justice alternative education program allotments, allowed expenditures, required priorities, and adjustments to the number of students for which a district's allotment is calculated; TEC, §31.0212, as amended by HB 1605, 88th Texas Legislature, Regular Session, 2023, which addresses the documentation required for requisitions and disbursements to be approved, districts' online instructional materials ordering system accounts, and school district submission to the commissioner of the title and publication information for any materials the districts purchase with their allotments; TEC, §31.0214, as transferred and amended by HB 1605, 88th Texas Legislature, Regular Session, 2023, which permits the commissioner to establish procedures to adjust the instructional materials and technology allotment of school districts experiencing high enrollment growth; TEC, §31.0215, as amended by HB 1605, 88th Texas Legislature, Regular Session, 2023, which addresses allotment purchases, including announcing to districts the amount of their allotments and delayed payment options; TEC, §31.029, which requires the commissioner to adopt rules regarding instructional materials for

use in bilingual education classes; TEC, §31.031, which requires the commissioner to adopt rules regarding the purchase of college preparatory instructional materials with the allotment; TEC, §31.076, as amended by HB 1605, 88th Texas Legislature, Regular Session, 2023, which permits the commissioner to adopt rules necessary to implement TEC, Chapter 31, Subchapter B-1, and states that a decision made by the commissioner under the subchapter is final and may not be appealed; and TEC, §31.104, which requires the commissioner to adopt rules that include criteria for determining whether instructional materials and technological equipment are returned in an acceptable condition.

**CROSS REFERENCE TO STATUTE.** The repeal implements Texas Education Code (TEC), §31.0211, as amended by House Bill (HB) 1605 and HB 4595, 88th Texas Legislature, Regular Session, 2023; §31.0212, as amended by HB 1605, 88th Texas Legislature, Regular Session, 2023; §31.0214, as transferred and amended by HB 1605, 88th Texas Legislature, Regular Session, 2023; §31.0215, as amended by HB 1605, 88th Texas Legislature, Regular Session, 2023; §31.029; §31.031; §31.076, as amended by HB 1605, 88th Texas Legislature, Regular Session, 2023; and §31.104.

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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Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

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



## CHAPTER 67. STATE REVIEW AND APPROVAL OF INSTRUCTIONAL MATERIALS SUBCHAPTER AA. INSTRUCTIONAL MATERIALS AND TECHNOLOGY ALLOTMENT

### 19 TAC §§67.1001, 67.1003, 67.1004

The Texas Education Agency (TEA) adopts new §§67.1001, 67.1003, and 67.1004, concerning the Instructional Materials and Technology Allotment. The new sections are adopted without changes to the proposed text as published in the March 7, 2025 issue of the *Texas Register* (50 TexReg 1751) and will not be republished. The adopted new rules establish the requirements for the Instructional Materials and Technology Allotment and establish guidance regarding the use of the additional state aid for state-approved instructional materials and open education resource instructional materials.

**REASONED JUSTIFICATION:** Adopted new §67.1001, Instructional Materials and Technology Allotment, clarifies the allowable uses of funds for the Instructional Materials and Technology Allotment that previously existed in 19 TAC §66.1307. This section also clarifies the commissioner's authority to set the allotment amounts for each school district and open-enrollment charter school and special school districts.

House Bill 1605, 88th Texas Legislature, Regular Session, 2023, established two new entitlements from the Foundation School Program. The bill also established requirements in Texas Education Code (TEC), Chapter 48, for the access to the funding.

Adopted new §67.1003, Additional State Aid for State-Approved Instructional Materials, clarifies the allowable uses of funds for the entitlement in TEC, §48.307, pertaining to additional state aid for state-approved instructional materials.

Adopted new §67.1004, Additional State Aid for Open Education Resource Instructional Materials, clarifies the allowable uses of funds for the entitlement in TEC, §48.308, pertaining to additional state aid for open education resource instructional materials.

**SUMMARY OF COMMENTS AND AGENCY RESPONSES:** The public comment period on the proposal began March 7, 2025, and ended April 7, 2025. No public comments were received.

**STATUTORY AUTHORITY.** The new sections are adopted under Texas Education Code (TEC), §31.003(b), as added by House Bill (HB) 1605, 88th Texas Legislature, Regular Session, 2023, which authorizes the commissioner of education to adopt rules consistent with TEC, Chapter 31, as necessary to implement a provision of the chapter that the commissioner or the agency is responsible for implementing; TEC, §31.0211, as amended by HB 1605 and HB 4595, 88th Texas Legislature, Regular Session, 2023, which permits the commissioner to adopt rules regarding the instructional materials and technology allotment, including the amount of the per-student allotment, the authorization of juvenile justice alternative education program allotments, allowed expenditures, required priorities, and adjustments to the number of students for which a district's allotment is calculated; TEC, §31.0212, as amended by HB 1605, 88th Texas Legislature, Regular Session, 2023, which addresses the documentation required for requisitions and disbursements to be approved, districts' online instructional materials ordering system accounts, and school district submissions to the commissioner of the title and publication information for any materials the districts purchase with their allotments; TEC, §31.0215, as amended by HB 1605, 88th Texas Legislature, Regular Session, 2023, which addresses allotment purchases, including announcing to districts the amount of their allotments and delayed payment options; TEC, §31.029, which requires the commissioner to adopt rules regarding instructional materials for use in bilingual education classes; TEC, §31.031, which requires the commissioner to adopt rules regarding the purchase of college preparatory instructional materials with the allotment; TEC, §31.071, as amended by HB 1605, 88th Texas Legislature, Regular Session, 2023, which addresses state-developed open-source instructional materials; TEC, §31.076, as amended by HB 1605, 88th Texas Legislature, Regular Session, 2023, which permits the commissioner to adopt rules necessary to implement TEC, Chapter 31, Subchapter B-1, and states that a decision made by the commissioner under the subchapter is final and may not be appealed; TEC, §31.104, which requires the commissioner to adopt rules that include criteria for determining whether instructional materials and technological equipment are returned in an acceptable condition; and TEC, §48.004, which requires the commissioner to adopt rules, act, and require reports consistent with Chapter 48 as necessary to implement and administer the Foundation School Program.

**CROSS REFERENCE TO STATUTE.** The new sections implement Texas Education Code (TEC), §31.003(b), as added by House Bill (HB) 1605, 88th Texas Legislature, Regular Ses-

sion, 2023; §31.0211, as amended by HB 1605 and HB 4595, 88th Texas Legislature, Regular Session, 2023; §31.0212, as amended by HB 1605, 88th Texas Legislature, Regular Session, 2023; §31.0215, as amended by HB 1605, 88th Texas Legislature, Regular Session, 2023; §31.029; §31.031; §31.071, as amended by HB 1605, 88th Texas Legislature, Regular Session, 2023; §31.076, as amended by HB 1605, 88th Texas Legislature, Regular Session, 2023; §31.104, as amended by HB 1605, 88th Texas Legislature, Regular Session, 2023; and §48.004.

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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Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

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



## **TITLE 22. EXAMINING BOARDS**

### **PART 6. TEXAS BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS**

#### **CHAPTER 131. ORGANIZATION AND ADMINISTRATION**

##### **SUBCHAPTER A. SCOPE AND DEFINITIONS**

###### **22 TAC §131.2**

The Texas Board of Professional Engineers and Land Surveyors (Board) adopts an amendment to 22 Texas Administrative Code, Chapter 131, regarding the Organization and Administration of the Board, specifically §131.2, relating to Definitions. The amendment is adopted without changes to the text as originally published in the January 24, 2025, issue of the *Texas Register* (50 TexReg 524) and will not be republished.

###### **REASONED JUSTIFICATION FOR RULE ADOPTION**

Texas Occupations Code §1001.311 authorizes the Board to license an applicant that is not a resident of the State of Texas if the applicant holds a license issued by another jurisdiction and has met substantially equivalent licensure requirements to those in Texas. The Board is proposing rules to clearly set the procedure and requirements for licensure for applicants from other US states and territories, as well as international applicants licensed in a country that has a licensure agreement with Texas.

The adopted rules amend §131.2 by adding necessary definitions for the reciprocal licensure process.

###### **PUBLIC COMMENTS**

Pursuant to §2001.029 of the Texas Government Code, the Board gave all interested persons a reasonable opportunity to provide oral and/or written commentary concerning the adoption of the rules. The 30-day public comment period began on

January 24, 2025, and ended February 24, 2025. The Board received no comments from the public.

#### STATUTORY AUTHORITY

The rules are adopted pursuant to Texas Occupations Code §§1001.201 and 1001.202, which authorize the Board to regulate engineering and land surveying and make and enforce all rules and regulations and bylaws consistent with the Act as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practices of engineering and land surveying in this state. In addition, §1001.311 allow for the licensure of nonresidents.

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 May 15, 2025.

TRD-202501677

Lance Kinney

Executive Director

Texas Board of Professional Engineers and Land Surveyors

Effective date: June 4, 2025

Proposal publication date: January 24, 2025

For further information, please call: (512) 440-7723



## CHAPTER 133. LICENSING FOR ENGINEERS

### SUBCHAPTER C. PROFESSIONAL ENGINEER LICENSE APPLICATION REQUIREMENTS

#### 22 TAC §133.27

The Texas Board of Professional Engineers and Land Surveyors (Board) adopts an amendment to 22 Texas Administrative Code, Chapter 133, regarding Licensing for Engineers, specifically §133.27 Application for Temporary License for Engineers Currently Licensed Outside the United States, without changes to the proposed text as published in the February 7, 2025, issue of the *Texas Register* (50 TexReg 740) and will not be republished.

#### REASONED JUSTIFICATION FOR RULE ADOPTION

Texas Occupations Code §1001.311 authorizes the Board to license an applicant that is not a resident of the State of Texas if the applicant holds a license issued by another jurisdiction and has met substantially equivalent licensure requirements to those in Texas. The Board is adopting rules to clearly set the procedure and requirements for licensure for applicants from other US states and territories, as well as international applicants licensed in a country that has a licensure agreement with Texas.

The adopted rules amend §133.27 by relocating language from a recent amendment to rule §133.11.

#### PUBLIC COMMENTS

Pursuant to §2001.029 of the Texas Government Code, the Board gave all interested persons a reasonable opportunity to provide oral and/or written commentary concerning the adoption of the rules. The 30-day public comment period began on February 7, 2025, and ended March 8, 2025. The Board received no comments from the public.

#### STATUTORY AUTHORITY

The amendments are adopted pursuant to Texas Occupations Code §§1001.201 and 1001.202, which authorize the Board to regulate engineering and land surveying and make and enforce all rules and regulations and bylaws consistent with the Act as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practices of engineering and land surveying in this state. In addition, §1001.311 allow for the licensure of nonresidents.

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 May 15, 2025.

TRD-202501678

Lance Kinney

Executive Director

Texas Board of Professional Engineers and Land Surveyors

Effective date: June 4, 2025

Proposal publication date: February 7, 2025

For further information, please call: (512) 440-7723



## PART 22. TEXAS STATE BOARD OF PUBLIC ACCOUNTANCY

### CHAPTER 519. PRACTICE AND PROCEDURE

#### SUBCHAPTER A. GENERAL PROVISIONS

#### 22 TAC §519.2

The Texas State Board of Public Accountancy adopts an amendment to §519.2, concerning Definitions, without changes to the proposed text as published in the March 28, 2025 issue of the *Texas Register* (50 TexReg 2158) and will not be republished.

The current cite to the rule does not identify the specific relevant paragraph. The paragraph is added. The definition of contested case eliminates language that doesn't apply because "ratemaking is not a responsibility of this agency.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 and §901.655 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

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 May 15, 2025.

TRD-202501657

J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

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For further information, please call: (512) 305-7842

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**22 TAC §519.7**

The Texas State Board of Public Accountancy adopts an amendment to §519.7 concerning Criminal Offenses that May Subject a Licensee or Certificate Holder to Discipline or Disqualify a Person from Receiving a License, without changes to the proposed text as published in the March 28, 2025 issue of the *Texas Register* (50 TexReg 2159) and will not be republished.

The word Sight Order is misspelled and this revision corrects the spelling.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 and §901.655 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

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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J. Randel (Jerry) Hill

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Texas State Board of Public Accountancy

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For further information, please call: (512) 305-7842

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**22 TAC §519.9**

The Texas State Board of Public Accountancy adopts an amendment to §519.9 concerning Administrative Penalty Guidelines, without changes to the proposed text as published in the March 28, 2025, issue of the *Texas Register* (50 TexReg 2162) and will not be republished.

The purpose of the graphic in the board's rules is to publish the criteria for the basis of sanctions for specific rule violations. The specific sanctions for violating board Rule §527.6 has been added to the graphic which concerns failing to report peer review and PROB inspection reports.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 and §901.655 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

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 State Board of Public Accountancy

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For further information, please call: (512) 305-7842

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**SUBCHAPTER B. COMPLAINTS AND INVESTIGATIONS**

**22 TAC §519.20**

The Texas State Board of Public Accountancy adopts an amendment to §519.20 concerning Complaints, without changes to the proposed text as published in the March 28, 2025 issue of the *Texas Register* (50 TexReg 2163) and will not be republished.

Enhances the board's ability to contain the complainant and respondent by requesting from the complainant the respondent's address. It also identifies that the firm referred to in subsection (f) of the rule is an out-of-state firm.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 and §901.655 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

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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For further information, please call: (512) 305-7842

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**22 TAC §519.21**

The Texas State Board of Public Accountancy adopts an amendment to §519.21 concerning Investigations, without changes to the proposed text as published in the March 28, 2025 issue of the *Texas Register* (50 TexReg 2164) and will not be republished.

Recognizes that the board may communicate with all available persons with information helpful to the board in a complaint investigation and not just the complainant and respondent.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 and §901.655 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

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 State Board of Public Accountancy

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For further information, please call: (512) 305-7842



## 22 TAC §519.23

The Texas State Board of Public Accountancy adopts an amendment to §519.23 concerning Informal Conferences, without changes to the proposed text as published in the March 28, 2025 issue of the *Texas Register* (50 TexReg 2165) and will not be republished.

The change is grammatical to arrange the wording in a logical sequence.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 and §901.655 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

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 State Board of Public Accountancy

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For further information, please call: (512) 305-7842



## 22 TAC §519.24

The Texas State Board of Public Accountancy adopts an amendment to §519.24 concerning Committee Recommendations, without changes to the proposed text as published in the March 28, 2025 issue of the *Texas Register* (50 TexReg 2166) and will not be republished.

This amendment recognizes that communications between the board and respondent licensee may be electronic as well as postal mail. It also recognizes that a hearing before the Executive Director will follow the normal rules of hearing as provided for in the rules of the State Office of Administrative Hearings and the board's rules.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 and §901.655 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

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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J. Randel (Jerry) Hill

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Texas State Board of Public Accountancy

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For further information, please call: (512) 305-7842



## 22 TAC §519.25

The Texas State Board of Public Accountancy adopts an amendment to §519.25 concerning Mediation and Alternative Dispute Resolution, without changes to the proposed text as published in the March 28, 2025 issue of the *Texas Register* (50 TexReg 2167) and will not be republished.

Provides additional information regarding the responsibilities of the board staff during mediation.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 and §901.655 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

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 State Board of Public Accountancy

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For further information, please call: (512) 305-7842



# TITLE 26. HEALTH AND HUMAN SERVICES

## PART 1. HEALTH AND HUMAN SERVICES COMMISSION

### CHAPTER 357. INDEPENDENT LIVING SERVICES PROGRAM

The executive commissioner of the Texas Health and Human Services Commission (HHSC) adopts amendments to §357.101, concerning Purpose; §357.103, concerning Legal Authority; §357.105, concerning Definitions; §357.201, concerning Allocation of Funds; §357.305, concerning Eligibility; §357.307, concerning Independent Living Plan; §357.309, concerning Waiting List; §357.311, concerning Scope of Services; §357.401, concerning Consumer Participation System; §357.403, concerning Fee Schedule Amount; §357.405, concerning Insurance Payments; §357.501, concerning Personal Rights; §357.503, concerning Complaint Process; §357.601, concerning Technical Assistance Provided by HHSC; and §357.701, concerning Referrals Received by HHSC Employees; and new §357.107, concerning Service Provider Standards and Contract Requirements.

Sections 357.105 and 357.305 are adopted with changes to the proposed text as published in the February 7, 2025, issue of the *Texas Register* (50 TexReg 742). These rules will be republished.

Sections 357.101, 357.103, 357.107, 357.201, 357.307, 357.309, 357.311, 357.401, 357.403, 357.405, 357.501, 357.503, 357.601, and 357.701 are adopted without changes to the proposed text as published in the February 7, 2025, issue of the *Texas Register* (50 TexReg 742). These rules will not be republished.

#### BACKGROUND AND JUSTIFICATION

Senate Bill (S.B.) 200, 84th Legislature, Regular Session, 2015, required the dissolution of the Department of Assistive and Rehabilitative Services (DARS). Independent Living Services (ILS) transferred to HHSC from the legacy DARS as part of the Health and Human Services Transformation. The ILS Program was subsequently outsourced to the Centers for Independent Living (CIL) on September 1, 2016, as required by House Bill (H.B.) 2463, 84th Legislature, Regular Session, 2015. HHSC continues to oversee the ILS Program, except for Independent Living Services for Older Individuals who are Blind, which transferred to the Texas Workforce Commission as required by S.B. 208, 84th Legislature, Regular Session, 2015.

The amendments update references from DARS to HHSC, outdated terms such as "individual" or "consumer," and references to "person" or "people" to align with the agency's person-centered language policy. The new rule requires service providers to adhere to the service provider standards and clarifies that they are responsible for the quality of any services subcontracted to a vendor. An amendment changes the eligibility criteria to require a person to reside in Texas, instead of merely being present in Texas.

#### COMMENTS

The 31-day comment period ended March 10, 2025.

During this period, HHSC received comments regarding the proposed rules from five organizations: the Texas State Independent Living Council (SILC), REACH CIL, ARCIL, RISE CIL and TEXCIL. Many of the comments shared identical wording across the different organizations. A summary of the comments relating to the rules and HHSC's responses follows.

Comment: One commenter provided a statement from the 2025 Texas State Plan for Independent Living (SPIL) and recommended that HHSC add the designated state entity (DSE) assurances to the "background information" because adding it provides more transparency and clarity of the role of TXHHS as

the DSE for both the Centers for Independent Living (CILs) and the SILC.

Response: HHSC believes that the commenter's use of "background information," means the background information in the adoption preamble. HHSC declines to add the information as recommended because that information is in the 2025 - 2027 Texas State Plan for Independent Living (SPIL) available on the SILC website.

Comment: Four commenters requested to change the purpose of the program in §357.101 and replace it with the definition of a CIL in the Rehabilitation Act of 1973, as amended.

Response: HHSC declines to change the rule in response to this comment. The purpose statement is intended to succinctly describe what the program does rather than a CIL. Much of the additional wording is incorporated either elsewhere in the chapter or in the standards for providers.

Comment: Five commenters requested to keep the original wording of §357.103(b) that "in case of a conflict, federal law prevails."

Response: HHSC declines to change the rule in response to this comment. The language is not necessary for the operation of the program.

Comment: One commenter requested inclusion of the definition of the State Plan for Independent Living (SPIL) and the State Independent Living Council (TXSILC) in §357.105.

Response: HHSC declines to change the rule in response to this comment. Chapter 357 explains how independent living services are provided by CILs contracting with HHSC. The State Plan for Independent Living includes some CILs that do not contract with HHSC. Additionally, there are some goals and objectives in the state plan which are not part of the array of services covered by CIL contracts with HHSC. Similarly, including the definition of the SILC is not necessary to explain the process for services provided by CILs contracted with HHSC.

Comment: Four commenters requested to change the term "consumer participation" in 357.105(11) and throughout the rule to "consumer financial match" to better reflect a financial responsibility.

Response: HHSC declines to change the rule in response to this comment. The definition of consumer participation in §357.105(11) states that it is a financial contribution a person may pay to receive independent living services. "Financial match" would imply that the person and the ILS program would pay the same amount, which is usually not the case.

Comment: Four commenters requested to change the definition of "nonprofit" in §357.105(19) to be less confusing.

Response: HHSC agrees to change the rule in response to this comment. HHSC has revised the definition of "nonprofit" to align with the definition found in 45 CFR §75.2, applicable per the authority found in 45 CFR §1329.3(c).

Comment: Four commenters requested to remove the definition of the Independent Living Services Program in §357.108 and replace it with the wording of the Rehabilitation Act of 1973, as amended.

Response: HHSC declines to change the rule in response to this comment. This definition is related to the state program operated by HHSC, rather than a definition of what independent living services are.

Comment: Four commenters requested to remove the new wording in §357.305(a) that a person must reside in Texas to be eligible for services.

Response: HHSC declines to change the rule in response to this comment. In addition to aligning the program with other programs at HHSC that require a person to reside in Texas, the rule's revision came at the request of several CILs, who felt the previous language of being "present in Texas" was challenging to implement. Section 357.305(a) is only for services where eligibility determination is required. For example, residency verification is not necessary to provide information and referral services, as it does not require eligibility or an independent living plan.

Comment: Five commenters requested removal of the phrase "eligibility is based on the documented diagnosis of a licensed practitioner" from §357.305(b).

Response: HHSC agrees to change the rule with modifications. The ILS program consists of two grants. For the purchased services grant, the requirement for the documented diagnosis of a licensed practitioner is important to ensure that people need the services being purchased for them. The CIL, not the person receiving services, pays for any medical records or evaluations required to obtain a diagnosis. However, there is not a requirement in the base grant (core services) standards to obtain a diagnosis. Therefore, HHSC has revised §357.305(b) to clarify that for purchased services, a service provider determines eligibility based on the documented diagnosis of a licensed practitioner, either at the at the time of eligibility or prior to the purchase of goods and services, and added that for core services, a service provider may determine eligibility without a documented diagnosis.

Comment: Four commenters requested to remove the word "must" when describing Independent Living Plans in §357.307.

Response: HHSC declines to change the rule in response to this comment. The term "must" is used in this context to describe obligations of the CIL, not the consumer, and does not impact flexibilities related to consumer needs or preference, nor impact a CIL's ability to terminate a plan, when necessary.

Comment: Five commenters requested to keep the original wording in §357.311 of "consumer information programs for persons who are minorities and who have been traditionally unserved and underserved."

Response: HHSC declines to change the rule in response to this comment. CILs are expected to engage with consumer information programs for all persons served by the CIL. The additional wording is not necessary.

Comment: Four commenters requested to replace all instances of "person" with "consumer."

Response: HHSC declines to change the rule in response to this comment. HHSC uses person-centered language, and while the term "consumer" is used when describing aspects of the ILS program (such as consumer participation or consumer satisfaction survey), "person" is used to describe anyone who has requested, applied for, or is receiving services through the Independent Living Services Program.

Comment: Three commenters recommended inclusion of the definition of "minorities" and "underserved populations" in Texas Human Resources Code §117.080.

Response: HHSC declines to make the requested change. This comment is outside the scope of the rule project. Further, HHSC

does not have the authority to amend statutes such as the Texas Human Resources Code.

## SUBCHAPTER A. GENERAL RULES

### 26 TAC §§357.101, 357.103, 357.105, 357.107

#### STATUTORY AUTHORITY

The amendments and new are adopted under Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services system; and Texas Human Resources Code §117.080(e), which authorizes the executive commissioner of HHSC to adopt rules necessary to implement that section, including requirements applicable to CILs providing independent living services under the program.

#### §357.105. Definitions.

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

(1) Ability to pay--The determination that a person is able to contribute financially toward the cost of independent living services.

(2) Accessible format--An alternative way of providing to a person with disabilities the same information, functionality, and services provided to a person without a disability. Examples of accessible formats include braille, accessible digital content, large print, American Sign Language, and recorded audio.

(3) Act--The Rehabilitation Act of 1973, as amended.

(4) Adjusted income--The dollar amount that is equal to a household's annual gross income, minus allowable deductions.

(5) Allotment--Funds distributed to a service provider by HHSC to provide services under this chapter.

(6) Allowable deductions--Certain unreimbursed household expenses that are subtracted from a household's annual gross income to calculate the adjusted income.

(7) Blind--A condition of having no more than 20/200 visual acuity in the better eye with correcting lenses or having visual acuity greater than 20/200 but with a field of vision in which the widest diameter subtends an angle no greater than 20 degrees.

(8) CAP--Client Assistance Program. A federally funded initiative that provides information, assistance, and advocacy for people with disabilities who are seeking or receiving services from CAPs funded under the Act. The CAP is implemented by Disability Rights Texas (DRTx), a legal services organization whose mission is to protect the human, service, and legal rights of persons with disabilities in Texas.

(9) CIL--Center for Independent Living. A private non-profit agency for people with significant disabilities (regardless of age or income) that is not residential, is consumer-controlled, is community-based, takes a cross-disability approach; and

(A) is designed and operated within a local community by persons with disabilities; and

(B) provides an array of independent living services, including, at a minimum, independent living core services as they are defined in 29 United States Code (U.S.C.) §705(17).

(10) Comparable services or benefits--Services and benefits that are provided or paid for, in whole or part, by other federal, state, or local public programs; by health insurance, third-party payers, or other private sources; or by the employee benefits that are available



to a person and are commensurate in quality and nature to the services that the person would otherwise receive from a service provider.

(11) Consumer participation--The financial contribution that a person may be required to pay for receiving independent living services.

(12) Consumer participation agreement--A document signed by a person and a CIL that outlines the percentage of adjusted income a person is required to contribute toward the cost of services.

(13) Consumer participation system--The system for determining and collecting the financial contribution that a person may be required to pay for receiving independent living services.

(14) Federal poverty level guidelines--The poverty guidelines updated periodically in the Federal Register by the United States Department of Health and Human Services under the authority of 42 U.S.C. §9902(2).

(15) Fee--A percentage of the full cost for a purchased service that a person pays. The percentage is based on the HHSC fee schedule and the fee does not exceed the maximum amount prescribed by HHSC.

(16) HHSC--The Texas Health and Human Services Commission.

(17) Independent living plan--A written plan in which a person and service provider have collaboratively identified the services that are needed to achieve the person's goal of living independently.

(18) Independent Living Services Program--The group authorized to oversee the services outlined in 29 U.S.C. §705(17) and (18). In Texas, that authority rests with HHSC. May also be referred to as "the program."

(19) Nonprofit organization--Any corporation, trust, association, cooperative, or other organization, not including an institution of higher education, that:

(A) is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;

(B) is not organized primarily for profit; and

(C) uses net proceeds to maintain, improve, or expand the operations of the organization.

(20) Person--Anyone who has requested, applied for, or is receiving services through the Independent Living Services Program.

(21) Private--An agency, organization, or institution that is not under federal or public supervision or control.

(22) Representative--Anyone chosen by a person served in the program, including the person's parent, guardian, other family member, or advocate. If a court has appointed a guardian or representative, that person is the representative. Unless documentation is provided showing otherwise, a parent or court-appointed guardian is presumed to be the representative for a person who is under 18 years of age and is not emancipated or married.

(23) Service provider--A CIL, nonprofit organization, organization, or other person who contracts with HHSC to provide independent living services.

(24) Severe visual impairment--A condition of having a visual acuity with best correction of 20/70 or less in the better eye, a visual field of 30 degrees or less in the better eye, or having a combination of both.

(25) Significant disability--A severe physical, mental, cognitive, or sensory impairment that substantially limits a person's ability to function independently in the family or community.

(26) Sliding fee scale--The fee scale HHSC uses to determine the maximum financial contribution that a person may be required to pay for receiving independent living services. The scale is based on the federal poverty level guidelines.

(27) Support services--Accommodations provided to a person to assist the person at an appointment with a service provider or vendor. Examples include translators, interpreters, braille, large print, and transportation.

(28) Transition services--Services that:

(A) facilitate the transition of a person with a significant disability from nursing homes and other institutions to home and community-based residences, with the requisite supports and services;

(B) provide assistance to a person with a significant disability who is at risk of entering an institution so that the person may remain in the community; and

(C) facilitate the transition of youth with significant disabilities, who were eligible for individualized education programs under section 614(d) of the Individuals with Disabilities Education Act, 20 U.S.C. §1414(d), and have completed secondary education or have otherwise left school to postsecondary life.

(29) Vendor--A person or organization subcontracted by a service provider to provide independent living services.

(30) Waived independent living plan--A written plan in which the service provider identifies on the behalf of the person the services that are needed to achieve the person's goal of living independently. The service provider writes the plan because the person has signed a waiver giving up the person's right to participate in the development of such a written plan.

(31) Youth with a disability--A person with a disability who is at least 14 years of age but younger than 24 years of age.

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. ALLOCATION OF FUNDS

### 26 TAC §357.201

#### STATUTORY AUTHORITY

The amendment is adopted under Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services system; and Texas Human Resources Code §117.080(e), which authorizes the executive commissioner of HHSC to adopt rules necessary to

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## SUBCHAPTER C. INDEPENDENT LIVING SERVICES

### 26 TAC §§357.305, 357.307, 357.309, 357.311

#### STATUTORY AUTHORITY

The amendments are adopted under Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services system; and Texas Human Resources Code §117.080(e), which authorizes the executive commissioner of HHSC to adopt rules necessary to implement that section, including requirements applicable to CILs providing independent living services under the program.

#### §357.305. *Eligibility.*

(a) To be eligible for independent living services, a person must:

(1) have a significant disability as defined in §357.105 of this chapter (relating to Definitions); and

(2) reside in Texas.

(b) For purchased services, a service provider determines eligibility based on the documented diagnosis of a licensed practitioner, either at the time of eligibility or prior to the purchase of goods and services. For core services, a service provider may determine eligibility without a documented diagnosis.

(c) Eligibility requirements are applied without regard to a person's race, religion, color, national origin, disability, age, sex, or in retaliation for prior civil rights activity.

(d) After a service provider documents a person is eligible for services, the service provider:

(1) notifies the person or the person's representative in writing about the person's fee, as described in §357.401 of this chapter (relating to Consumer Participation System);

(2) verifies all potential comparable services or benefits that may be covered for independent living services, as provided under this chapter; and

(3) maintains all related documentation.

(e) If a service provider determines that a person is ineligible based on the criteria described in this section, the service provider must document the determination of ineligibility and provide HHSC with a

copy that is signed and dated by the service provider's executive director or designee.

(1) A service provider may determine a person to be ineligible for independent living services only after consultation with the person or the person's representative or after providing a clear opportunity for consultation.

(2) A service provider notifies a person in writing of the action taken and informs the person or the person's representative about the person's rights and the means by which the person may appeal the action taken or file a complaint.

(3) A service provider refers the person to other agencies and facilities, if appropriate, including to the Texas Workforce Commission's vocational rehabilitation program.

(4) If a service provider determines that a person is ineligible for independent living services, the service provider reviews the person's status again within 12 months of the determination and whenever the service provider determines that the person's status has materially changed.

(5) A service provider does not conduct a review of an ineligibility determination if:

(A) the person refuses one;

(B) the person no longer resides in Texas; or

(C) the person's whereabouts are unknown.

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## SUBCHAPTER D. CONSUMER PARTICIPATION

### 26 TAC §§357.401, 357.403, 357.405

#### STATUTORY AUTHORITY

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## SUBCHAPTER E. PERSONAL RIGHTS

### 26 TAC §357.501, §357.503

#### STATUTORY AUTHORITY

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## SUBCHAPTER F. TECHNICAL ASSISTANCE AND TRAINING

### 26 TAC §357.601

#### STATUTORY AUTHORITY

The amendment is adopted under Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services system; and Texas

Human Resources Code §117.080(e), which authorizes the executive commissioner of HHSC to adopt rules necessary to implement that section, including requirements applicable to CILs providing independent living services under the program.

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## SUBCHAPTER G. REFERRALS

### 26 TAC §357.701

#### STATUTORY AUTHORITY

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