# TEXAS REGISTER

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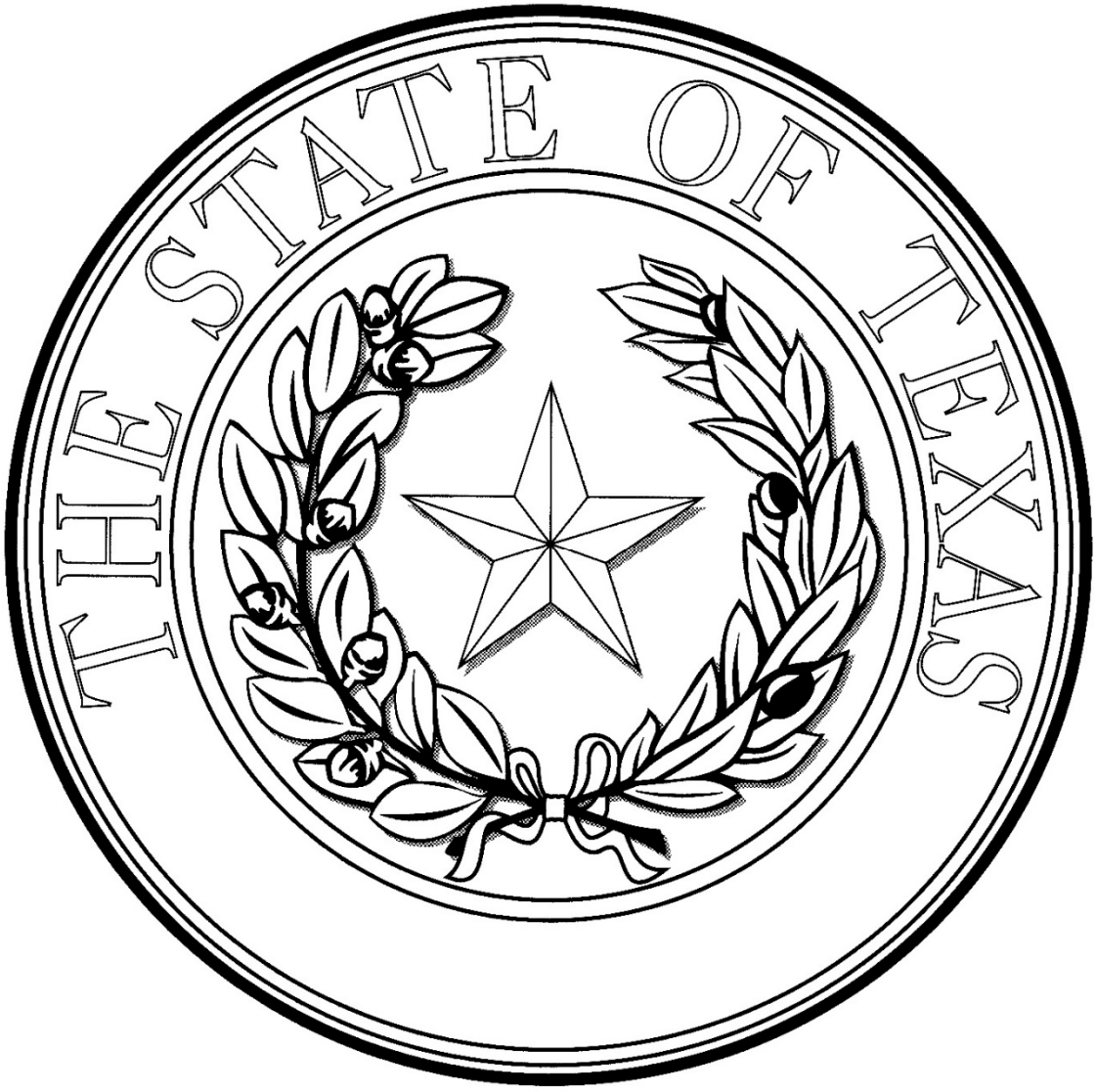

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# In This Issue


## *GOVERNOR*

Appointments....5035

## *PROPOSED RULES*

**OFFICE OF THE ATTORNEY GENERAL**

PUBLIC INFORMATION

1 TAC §§63.30 - 63.37 ....5037

**TEXAS HEALTH AND HUMAN SERVICES COMMISSION**

REIMBURSEMENT RATES

1 TAC §355.8070....5040

**TEXAS DEPARTMENT OF LICENSING AND REGULATION**

ADMINISTRATION OF TEXAS LOTTERY AND CHARITABLE BINGO

16 TAC §140.2....5047

16 TAC §§140.152, 140.153, 140.157, 140.158, 140.160....5047

16 TAC §§140.355, 140.368, 140.369....5052

**TEXAS HIGHER EDUCATION COORDINATING BOARD**

AGENCY ADMINISTRATION

19 TAC §1.18....5053

19 TAC §§1.136, 1.139 - 1.141 ....5054

19 TAC §§1.280 - 1.287 ....5055

RULES APPLYING TO ALL PUBLIC INSTITUTIONS OF HIGHER EDUCATION IN TEXAS

19 TAC §§4.81 - 4.88 ....5059

DEGREE GRANTING COLLEGES AND UNIVERSITIES OTHER THAN TEXAS PUBLIC INSTITUTIONS

19 TAC §§7.1 - 7.16 ....5067

19 TAC §§7.50 - 7.57 ....5067

19 TAC §§7.1 - 7.3 ....5071

19 TAC §§7.13 - 7.25 ....5074

19 TAC §§7.36 - 7.39 ....5077

19 TAC §§7.50 - 7.53 ....5079

19 TAC §§7.65 - 7.74 ....5080

19 TAC §§7.83 - 7.98 ....5084

19 TAC §§7.108 - 7.113....5088

19 TAC §§7.121 - 7.125 ....5089

19 TAC §§7.135 - 7.137 ....5090

19 TAC §§7.148 - 7.151 ....5091

19 TAC §§7.163 - 7.169 ....5092

19 TAC §§7.180 - 7.185 ....5093

19 TAC §§7.196 - 7.199 ....5095

19 TAC §§7.210 - 7.217 ....5096

FINANCIAL PLANNING

19 TAC §13.129....5098

19 TAC §13.472....5099

STUDENT FINANCIAL AID PROGRAMS

19 TAC §§22.1, 22.8, 22.11....5100

19 TAC §22.12, §22.13....5103

19 TAC §22.30....5105

19 TAC §22.135....5106

19 TAC §§22.226, 22.228, 22.238....5107

19 TAC §§22.254, 22.261, 22.265....5109

19 TAC §§22.367 - 22.369 ....5111

STUDENT LOAN PROGRAMS

19 TAC §24.46....5113

**TEXAS EDUCATION AGENCY**

ADAPTATIONS FOR SPECIAL POPULATIONS

19 TAC §§89.1201, 89.1203, 89.1210, 89.1215, 89.1220, 89.1226 - 89.1228, 89.1230, 89.1235....5114

**TEXAS STATE BOARD OF EXAMINERS OF PROFESSIONAL COUNSELORS**

PROFESSIONAL COUNSELORS

22 TAC §681.91....5123

22 TAC §681.92....5124

22 TAC §681.93....5126

**TEXAS STATE BOARD OF EXAMINERS OF MARRIAGE AND FAMILY THERAPISTS**

LICENSURE AND REGULATION OF MARRIAGE AND FAMILY THERAPISTS

22 TAC §801.2....5128

22 TAC §801.44....5130

22 TAC §801.47....5132

22 TAC §801.53....5134

22 TAC §801.54....5135

22 TAC §801.58....5137

22 TAC §801.142....5139

**TEXAS BEHAVIORAL HEALTH EXECUTIVE COUNCIL**

APPLICATIONS AND LICENSING

22 TAC §882.6....5140

22 TAC §882.36 ..... 5142

COMPLAINTS AND ENFORCEMENT

22 TAC §884.31 ..... 5143

**HEALTH AND HUMAN SERVICES COMMISSION**

LICENSING STANDARDS FOR PRESCRIBED PEDIATRIC EXTENDED CARE CENTERS

26 TAC §550.1301 ..... 5144

**TEXAS WATER DEVELOPMENT BOARD**

AGRICULTURAL WATER CONSERVATION PROGRAM

31 TAC §§367.2 - 367.7, 367.12 - 367.14, 367.16 ..... 5146

**STATE PENSION REVIEW BOARD**

FUNDING SOUNDNESS RESTORATION PLANS

40 TAC §§610.13 - 610.15, 610.20, 610.21, 610.30 - 610.32 ..... 5151

**TEXAS WORKFORCE COMMISSION**

GENERAL ADMINISTRATION

40 TAC §800.2 ..... 5157

40 TAC §§800.57, 800.58, 800.68 ..... 5159

40 TAC §800.69 ..... 5161

40 TAC §800.201, §800.205 ..... 5161

40 TAC §§800.202 - 800.204 ..... 5162

40 TAC §§800.251 - 800.255 ..... 5162

40 TAC §800.301 ..... 5163

40 TAC §§800.350 - 800.352 ..... 5164

40 TAC §800.502 ..... 5165

UNEMPLOYMENT INSURANCE

40 TAC §815.1, §815.3 ..... 5167

40 TAC §815.21, §815.25 ..... 5168

40 TAC §815.113, §815.115 ..... 5170

40 TAC §815.107 ..... 5171

40 TAC §815.165 ..... 5174

***ADOPTED RULES***

**TEXAS HEALTH AND HUMAN SERVICES COMMISSION**

MEDICAID HEALTH SERVICES

1 TAC §§354.4003, 354.4005, 354.4006, 354.4013 ..... 5177

**TEXAS HIGHER EDUCATION COORDINATING BOARD**

AGENCY ADMINISTRATION

19 TAC §§1.9, 1.13, 1.16 ..... 5180

19 TAC §1.126, §1.127 ..... 5180

19 TAC §1.900 ..... 5181

ACADEMIC AND WORKFORCE EDUCATION

19 TAC §§2.380 - 2.384, 2.386, 2.388, 2.389 ..... 5181

19 TAC §2.388 ..... 5183

19 TAC §§2.500 - 2.503 ..... 5183

RULES APPLYING TO ALL PUBLIC INSTITUTIONS OF HIGHER EDUCATION IN TEXAS

19 TAC §§4.270 - 4.279 ..... 5184

19 TAC §4.356 ..... 5184

HEALTH EDUCATION, TRAINING, AND RESEARCH FUNDS

19 TAC §§6.91 - 6.96 ..... 5185

TEXAS STATE TECHNICAL COLLEGE SYSTEM

19 TAC §§11.40 - 11.48 ..... 5185

FINANCIAL PLANNING

19 TAC §§13.180 - 13.186 ..... 5187

19 TAC §13.595, §13.597 ..... 5188

19 TAC §13.624 ..... 5188

19 TAC §§13.643, 13.644, 13.646 ..... 5189

19 TAC §§13.660 - 13.670 ..... 5190

**TEXAS EDUCATION AGENCY**

PLANNING AND ACCOUNTABILITY

19 TAC §97.1066 ..... 5195

**HEALTH AND HUMAN SERVICES COMMISSION**

MINIMUM STANDARDS FOR CHILD-PLACING AGENCIES

26 TAC §749.801 ..... 5204

26 TAC §749.811, §749.813 ..... 5204

26 TAC §749.831, §749.833 ..... 5204

26 TAC §§749.861, 749.863 - 749.865, 749.867 - 749.869 ..... 5204

26 TAC §§749.881 - 749.883, 749.885, 749.887, 749.889 ..... 5205

26 TAC §§749.911, 749.913, 749.915 ..... 5205

26 TAC §§749.930 - 749.933, 749.935, 749.937, 749.939 ..... 5205

26 TAC §§749.941, 749.943 - 749.945, 749.947, 749.949 ..... 5205

26 TAC §§749.1001, 749.1003, 749.1005, 749.1007, 749.1009, 749.1011, 749.1013, 749.1015, 749.1017, 749.1019, 749.1021 ..... 5206

26 TAC §§749.1101, 749.1103, 749.1105, 749.1107, 749.1109, 749.1111, 749.1113, 749.1115 ..... 5206

26 TAC §§749.1131, 749.1133, 749.1135, 749.1137 ..... 5206

26 TAC §§749.1151, 749.1153, 749.1155 ..... 5206

26 TAC §§749.1181, 749.1183, 749.1185, 749.1187, 749.1189 ..... 5207

26 TAC §§749.1251, 749.1253, 749.1255 ..... 5207

26 TAC §749.1281 ....5207
26 TAC §749.1291 ....5207
26 TAC §§749.1301, 749.1305, 749.1307, 749.1309, 749.1311 - 749.1313, 749.1315, 749.1317, 749.1319, 749.1321, 749.1323 ...5208
26 TAC §§749.1331, 749.1333, 749.1335 - 749.1337, 749.1339 .5208
26 TAC §§749.1361, 749.1363, 749.1365, 749.1367, 749.1369, 749.1371, 749.1373, 749.1377 ....5208
26 TAC §§749.1401, 749.1403, 749.1405, 749.1409, 749.1411, 749.1413, 749.1415, 749.1417, 749.1421, 749.1423, 749.1425, 749.1427, 749.1429, 749.1431, 749.1433, 749.1435, 749.1437 ...5208
26 TAC §§749.1461, 749.1463, 749.1469 ....5209
26 TAC §749.1501, §749.1503 ....5209
26 TAC §749.1521 ....5209
26 TAC §§749.1541, 749.1543, 749.1545 ....5209
26 TAC §§749.1561, 749.1563, 749.1565 ....5210
26 TAC §749.1581, §749.1583 ....5210
26 TAC §§749.1603, 749.1605, 749.1607, 749.1609, 749.1611 ...5210
26 TAC §§749.1641, 749.1643, 749.1645, 749.1647 ....5210
26 TAC §§749.1671, 749.1673, 749.1675 ....5211
26 TAC §§749.1801, 749.1803, 749.1805, 749.1807, 749.1809, 749.1811, 749.1813, 749.1815, 749.1817, 749.1819, 749.1821 ....5211
26 TAC §749.1841 ....5211
26 TAC §§749.1861, 749.1863, 749.1865 ....5211
26 TAC §§749.1891, 749.1893, 749.1895 ....5212
26 TAC §§749.1921, 749.1923, 749.1925, 749.1927 ....5212
26 TAC §§749.1951, 749.1953, 749.1955, 749.1957, 749.1959, 749.1961 ....5212
26 TAC §749.2001 ....5212
26 TAC §§749.2051, 749.2053, 749.2055, 749.2059, 749.2061, 749.2063 ....5213
26 TAC §§749.2101, 749.2103, 749.2105, 749.2107 ....5213
26 TAC §749.2151, §749.2153 ....5213
26 TAC §§749.2201, 749.2203, 749.2205 ....5213
26 TAC §749.2231, §749.2233 ....5214
26 TAC §749.2281, §749.2283 ....5214
26 TAC §§749.2301, 749.2303, 749.2305, 749.2307 ....5214
26 TAC §§749.2331, 749.2333, 749.2335, 749.2337, 749.2339 ...5214
26 TAC §749.2381, §749.2383 ....5215
26 TAC §§749.2401, 749.2403, 749.2405, 749.2407 ....5215
26 TAC §§749.2445, 749.2447, 749.2449, 749.2451, 749.2453 ...5215
26 TAC §§749.2470, 749.2473, 749.2475, 749.2477, 749.2479, 749.2481, 749.2483, 749.2485, 749.2487 - 749.2489, 749.2491, 749.2493, 749.2495, 749.2497 ....5215
26 TAC §§749.2520, 749.2521, 749.2523, 749.2525 - 749.2527, 749.2529, 749.2531, 749.2533, 749.2535, 749.2537, 749.2539 ....5216
26 TAC §§749.2550, 749.2551, 749.2555, 749.2557 ....5216
26 TAC §§749.2591, 749.2593, 749.2595, 749.2597, 749.2599 ...5216
26 TAC §§749.2601, 749.2603, 749.2605, 749.2607 ....5216
26 TAC §§749.2621, 749.2623, 749.2625, 749.2627, 749.2629, 749.2631, 749.2633, 749.2635 ....5217
26 TAC §§749.2651, 749.2653, 749.2655 ....5217
26 TAC §§749.2801, 749.2803, 749.2805, 749.2807, 749.2809, 749.2811, 749.2813 - 749.2815, 749.2817, 749.2819, 749.2821, 749.2823, 749.2825 ....5217
26 TAC §§749.2901 - 749.2905, 749.2907 - 749.2909, 749.2911, 749.2913, 749.2915, 749.2917 ....5217
26 TAC §749.2931 ....5218
26 TAC §§749.2961, 749.2963, 749.2965, 749.2967 ....5218
26 TAC §§749.3021, 749.3023, 749.3025, 749.3027, 749.3029, 749.3031, 749.3033, 749.3035, 749.3037, 749.3039, 749.3041, 749.3043 ....5218
26 TAC §§749.3061, 749.3063, 749.3065, 749.3067, 749.3069, 749.3071, 749.3073, 749.3075, 749.3077, 749.3079, 749.3081 ....5218
26 TAC §§749.3101, 749.3103, 749.3105, 749.3107, 749.3109, 749.3111 ....5219
26 TAC §§749.3131, 749.3133, 749.3135, 749.3137, 749.3139, 749.3141, 749.3143, 749.3145, 749.3147, 749.3149, 749.3151 ....5219
26 TAC §§749.801, 749.803, 749.805, 749.807 ....5219
26 TAC §§749.821, 749.823, 749.825 ....5220
26 TAC §749.831 ....5220
26 TAC §§749.901, 749.903, 749.905 ....5221
26 TAC §§749.921, 749.923, 749.925, 749.927, 749.929, 749.931, 749.933, 749.935, 749.937 ....5223
26 TAC §§749.951, 749.953, 749.955, 749.957, 749.959 ....5225
26 TAC §§749.973, 749.975, 749.977 ....5226
26 TAC §§749.1001, 749.1003, 749.1005, 749.1007, 749.1009, 749.1011, 749.1013, 749.1015, 749.1017, 749.1019 ....5226
26 TAC §§749.1031, 749.1033, 749.1035, 749.1037 ....5227
26 TAC §749.1051, §749.1053 ....5228
26 TAC §§749.1061, 749.1063, 749.1065 ....5228
26 TAC §§749.1101, 749.1103, 749.1105, 749.1107, 749.1109 ....5228
26 TAC §§749.1201, 749.1203, 749.1205, 749.1207, 749.1209, 749.1211, 749.1213, 749.1215, 749.1217 ....5229
26 TAC §§749.1231, 749.1233, 749.1235, 749.1237 ....5230
26 TAC §749.1251, §749.1253 ....5230
26 TAC §§749.1301, 749.1303, 749.1305, 749.1307 ....5231
26 TAC §§749.1401, 749.1403, 749.1405, 749.1407, 749.1409, 749.1411, 749.1413, 749.1415, 749.1417, 749.1419, 749.1421, 749.1423 ....5232

26 TAC §§749.1501, 749.1503, 749.1505 ..... 5233
26 TAC §§749.1601, 749.1603, 749.1605, 749.1607 ..... 5234
26 TAC §§749.1621, 749.1623, 749.1625 ..... 5234
26 TAC §§749.1631, 749.1633, 749.1635 ..... 5234

**TEXAS WATER DEVELOPMENT BOARD**

GROUNDWATER MANAGEMENT

31 TAC §356.32 ..... 5236
31 TAC §356.42 ..... 5237
31 TAC §356.52, §356.54 ..... 5237

STATE WATER PLANNING GUIDELINES

31 TAC §358.6 ..... 5237
31 TAC §§358.10 - 358.15 ..... 5238

FINANCIAL ASSISTANCE PROGRAMS

31 TAC §363.12, §363.15 ..... 5242

**TEACHER RETIREMENT SYSTEM OF TEXAS**

HEALTH CARE AND INSURANCE PROGRAMS

34 TAC §41.17 ..... 5243
34 TAC §41.38 ..... 5244

**TEXAS COMMISSION ON FIRE PROTECTION**

TRAINING FACILITY CERTIFICATION

37 TAC §427.11 ..... 5245
37 TAC §427.211 ..... 5245
37 TAC §427.301 ..... 5245
37 TAC §427.403 ..... 5245

FIRE FIGHTER SAFETY

37 TAC §435.23 ..... 5246
37 TAC §435.25 ..... 5246
37 TAC §435.29 ..... 5246
37 TAC §435.31 ..... 5246

FEES

37 TAC §437.7 ..... 5247

**TEXAS WORKFORCE COMMISSION**

JOBS AND EDUCATION FOR TEXANS (JET) GRANT PROGRAM

40 TAC §804.1 ..... 5248
40 TAC §§804.12 - 804.14 ..... 5248
40 TAC §804.21, §804.24 ..... 5248
40 TAC §804.41 ..... 5249

RURAL WORKFORCE DEVELOPMENT GRANT PROGRAM

40 TAC §§812.1 - 812.3 ..... 5250
40 TAC §§812.11 - 812.15 ..... 5250

ADVANCED NUCLEAR ENERGY WORKFORCE DEVELOPMENT PROGRAM

40 TAC §814.1 ..... 5251
40 TAC §§814.11 - 814.13 ..... 5252

UNEMPLOYMENT INSURANCE

40 TAC §815.20, §815.28 ..... 5252

***RULE REVIEW***

**Proposed Rule Reviews**

Office of Consumer Credit Commissioner ..... 5255
Texas Higher Education Coordinating Board ..... 5255

**Adopted Rule Reviews**

Texas Higher Education Coordinating Board ..... 5255
Department of State Health Services ..... 5257
Texas Health and Human Services Commission ..... 5257
Teacher Retirement System of Texas ..... 5257
State Pension Review Board ..... 5258

***TABLES AND GRAPHICS***

..... 5261

***IN ADDITION***

**Comptroller of Public Accounts**

Certification of the Average Closing Price of Gas and Oil - June 2026 ..... 5271

**Office of Consumer Credit Commissioner**

Notice of Rate Ceilings ..... 5271

**Texas Education Agency**

Correction of Error ..... 5271

**Texas Commission on Environmental Quality**

Agreed Orders ..... 5271
Enforcement Orders ..... 5274
Notice of an Application for a Water Use Permit 13830 ..... 5275
Notice of Application and Opportunity to Request a Public Meeting for a New Municipal Solid Waste Facility Proposed Registration No. 40350 ..... 5276
Notice of District Petition - D-07062026-017 ..... 5277
Notice of Opportunity to Comment on Agreed Orders of Administrative Enforcement Actions ..... 5277
Notice of Public Meeting Renewal Permit No. WQ0015664002 .5278
Update to the Water Quality Management Plan (WQMP) ..... 5279

**General Land Office**

Notice and Opportunity to Comment on Requests for Consistency Agreement/Concurrence Under the Texas Coastal Management Program .....5279

**Texas Health and Human Services Commission**

Correction of Error.....5280

Public Notice: Texas State Plan for Medical Assistance Amendment .....5280

Public Notice - Texas State Plan for Medical Assistance Amendment .....5281

**Department of State Health Services**

Correction of Error.....5281

Licensing Actions for Radioactive Materials .....5282

**Texas Department of Insurance**

Company Licensing .....5289

**Texas Department of Licensing and Regulation**

Scratch Ticket Game Number 2760 "BINGO TIMES 20".....5289

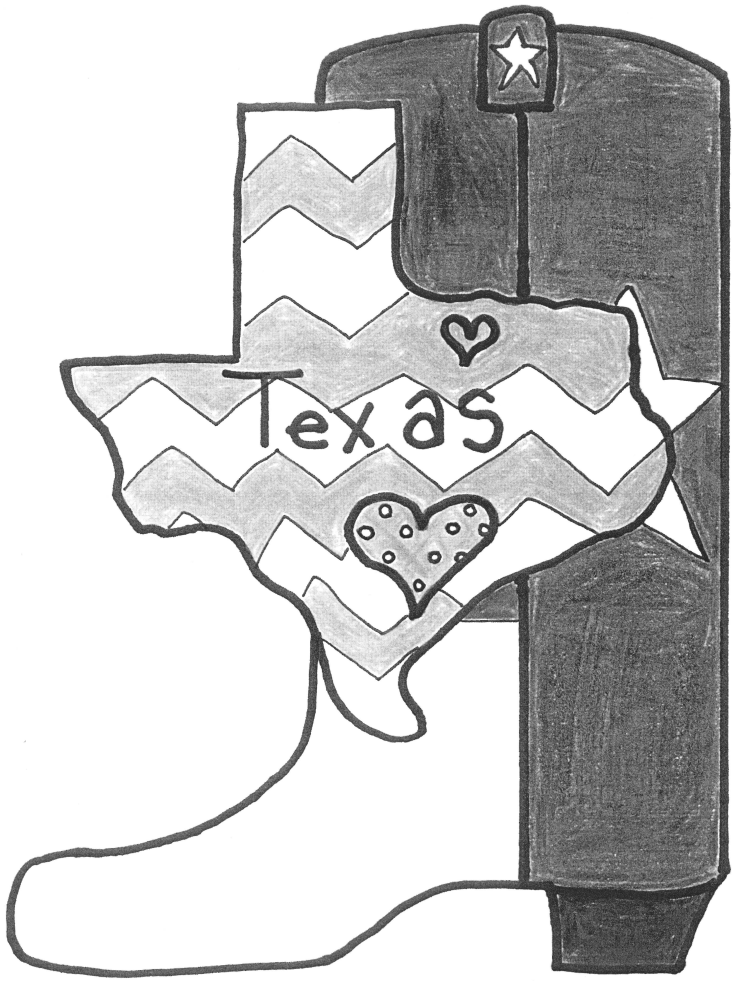
**Public Utility Commission of Texas**

Notice of Application to Adjust High-Cost Support Under 16 TAC §26.407(h).....5299

Notice of Application to Recover Funds From the Texas Universal Service Fund Under 16 TAC §26.406 .....5299

**Texas State Soil and Water Conservation Board**

Request for Proposals - Fiscal Year 2027 Clean Water Act §319(h) Nonpoint Source Grant Program .....5299


Texas

# THE GOVERNOR

As required by Government Code, §2002.011(4), the *Texas Register* publishes executive orders issued by the Governor of Texas. Appointments and proclamations are also published. Appointments are published in chronological order. Additional information on documents submitted for publication by the Governor's Office can be obtained by calling (512) 463-1828.

## Appointments

**Appointments for July 24, 2026**

Appointed to the Governing Board of the Texas School for the Blind and Visually Impaired for a term to expire January 31, 2027, Rusty K. Peterson of Allen, Texas (replacing Maghan N. Gautney of Anna, who resigned).

**Appointments for July 27, 2026**

Pursuant to HB 4751, 89th Legislature, Regular Session, appointed to the Texas Quantum Initiative Advisory Committee for a term to expire January 31, 2029, Katie L. Pizzolato of Mountain Home, Texas.

**Appointments for July 29, 2026**

Appointed as Judge of the First Business Court Division, effective September 1, 2026, for a term to expire September 1, 2028, Andrea K. Bouressa of Murphy, Texas.

Appointed as Judge of the First Business Court Division, effective September 1, 2026, for a term to expire September 1, 2028, William G. "Bill" Whitehill of Coppell, Texas.

Appointed as Judge of the Third Business Court Division, effective September 1, 2026, for a term to expire September 1, 2028, Melissa Davis Andrews of Austin, Texas.

Appointed as Judge of the Third Business Court Division, effective September 1, 2026, for a term to expire September 1, 2028, Patrick K. Sweeten of Austin, Texas.

Appointed as Judge of the Fourth Business Court Division, effective September 1, 2026, for a term to expire September 1, 2028, Marialyn P. Barnard of San Antonio, Texas.

Appointed as Judge of the Fourth Business Court Division, effective September 1, 2026, for a term to expire September 1, 2028, Stacy R. Sharp of San Antonio, Texas.

Appointed as Judge of the Eighth Business Court Division, effective September 1, 2026, for a term to expire September 1, 2028, Jerry D. Bullard of Colleyville, Texas.

Appointed as Judge of the Eighth Business Court Division, effective September 1, 2026, for a term to expire September 1, 2028, Brian S. Stagner of Fort Worth, Texas.

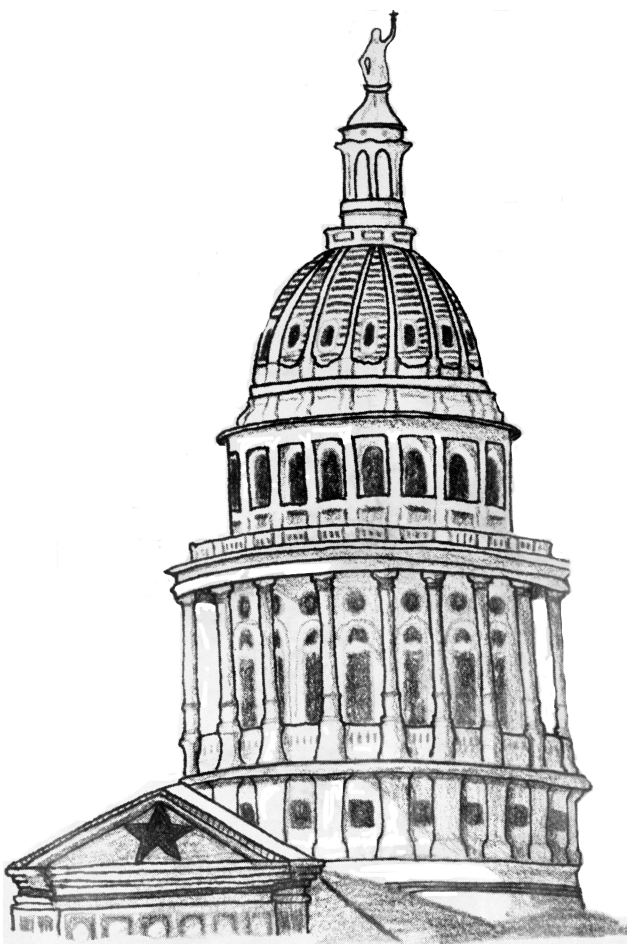
Appointed as Judge of the Eleventh Business Court Division, effective September 1, 2026, for a term to expire September 1, 2028, Maria "Sofia" Adrogué of Houston, Texas.

Appointed as Judge of the Eleventh Business Court Division, effective September 1, 2026, for a term to expire September 1, 2028, Samuel G. "Grant" Dorfman of Bellaire, Texas.

Greg Abbott, Governor

TRD-202603212

♦ ♦ ♦



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

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

# TITLE 1. ADMINISTRATION

## PART 3. OFFICE OF THE ATTORNEY GENERAL

### CHAPTER 63. PUBLIC INFORMATION

### SUBCHAPTER D. SPECIAL RIGHT OF ACCESS FOR GOVERNING BOARD MEMBERS

**1 TAC §§63.30 - 63.37**

The Office of the Attorney General (OAG) proposes amendments to Chapter 63 in Title 1 of the Texas Administrative Code (TAC) relating to the Special Right of Access for Governing Board Members. The OAG proposes new Subchapter D, which consists of §§63.30 - 63.37. Proposed new Subchapter D is necessary to implement House Bill 4310, 89th Legislature, Regular Session, which added Subchapter K to Government Code Chapter 552, relating to a special right of access for members of governing boards and requiring the OAG to adopt rules establishing procedures and deadlines for review of information covered by confidentiality agreements executed under that subchapter.

BACKGROUND INFORMATION AND JUSTIFICATION

The Legislature, in the 89th Legislature, Regular Session (2025), added Subchapter K to Chapter 552 of the Government Code (H.B. 4310) which authorizes a member of a governing board of a governmental body or certain nongovernmental entities to obtain access, under a confidentiality agreement, to information that is confidential or otherwise excepted from required public disclosure under the Texas Public Information Act (the Act).

Government Code §552.405 requires the OAG to adopt rules establishing procedures and deadlines for receiving information and briefs necessary to determine whether information covered by a confidentiality agreement is confidential under law.

Proposed new Subchapter D mirrors existing processes in Chapter 63 for confidentiality determinations when special access applies under the Act to ensure consistency and clarity. Proposed new Subchapter D establishes who may request a determination, the required form and content of a request, procedures for submitting information and briefs, and deadlines for submissions and decisions.

SECTION-BY-SECTION SUMMARY

Proposed new §63.30 states the purpose and authority for the rules and references Government Code §552.405 as the statutory basis for adopting procedures. Proposed new §63.31 provides definitions of key terms used throughout the subchapter. Proposed new §63.32 identifies who may request a determination from the OAG and clarifies who may submit briefs in response. Proposed new §63.33 prescribes the required form and content of a request for determination, including documentation and statements necessary for review. Proposed new §63.34 requires the OAG to provide notice of the request for determination to the governmental body or nongovernmental entity. Proposed new §63.35 provides for what documents the governmental body or nongovernmental entity is required to submit to the OAG for a request for determination. Proposed new §63.35 also provides for when a governmental body or nongovernmental entity shall notify an interested party, and how written comments may be submitted to the OAG. Proposed new §63.36 provides the OAG may determine if a governmental body's or nongovernmental entity's submission is sufficient to render a decision, and that the OAG shall notify the governmental body or nongovernmental entity that additional information is necessary to render a decision. Proposed new §63.37 states the OAG shall render a determination not later than the 45th business day after the date the OAG receives a request for determination and shall issue and provide a copy of the written determination to the member requestor, the governmental body or nongovernmental body, and any interested person.

FISCAL NOTE

The OAG has determined that for each year of the first five years the proposed rules are in effect, there are no anticipated fiscal implications for state or local governments as a result of enforcing or administering the rules.

PUBLIC BENEFIT

For each year of the first five years the proposed rules are in effect, the public benefit anticipated includes increased clarity and consistency regarding confidentiality determinations under Subchapter K of Chapter 552 of the Government Code. The OAG does not anticipate costs to individuals or entities required to comply, other than minimal administrative costs associated with preparing and submitting requests and briefs.

ECONOMIC COSTS TO PERSONS AND IMPACT ON LOCAL ECONOMY

The OAG has determined that the proposed rules do not have an impact on local employment or economies because the proposed rules only impact governmental bodies and nongovernmental entities. Therefore, no local employment or economy impact statement is required under Texas Government Code §2001.022.

FISCAL IMPACT ON SMALL BUSINESSES, MICRO-BUSINESSES, AND RURAL COMMUNITIES

The OAG has determined that for each year of the first five-year period the proposed rules are in effect, there will be no foresee-

able adverse fiscal impact on small business, micro-businesses, or rural communities as a result of the proposed rules.

Since the proposed rules will have no adverse economic effect on small businesses, micro-businesses, or rural communities, preparation of an Economic Impact Statement and a Regulatory Flexibility Analysis, as detailed under Texas Government Code §2006.002, is not required.

TAKINGS IMPACT ASSESSMENT

The OAG has determined that no private real property interests are affected by the proposed rules, and the proposed rules do not restrict, limit, or impose a burden on an owner's rights to the owner's private real property that would otherwise exist in the absence of government action. As a result, the proposed rules do not constitute a taking or require a takings impact assessment under Texas Government Code §2007.043.

GOVERNMENT GROWTH IMPACT STATEMENT

Pursuant to Texas Government Code §2001.0221, the OAG has prepared a government growth impact statement for the proposed rules. For each year of the first five years that the proposed new rules will be in effect, the OAG has determined the following:

(1) the proposed rules will not create or eliminate a government program;

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

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

(4) the proposed rules will not require an increase or decrease in fees paid to the agency;

(5) the proposed rules are new rules and therefore create new regulations;

(6) the proposed rules will not expand, limit, or repeal an existing regulation;

(7) the proposed rules will not increase or decrease the number of individuals subject to the rules' applicability; and

(8) the proposed rules will not positively or adversely affect the state's economy.

REQUEST FOR PUBLIC COMMENTS

Written comments or questions on the proposed rules may be submitted electronically to the OAG's Open Records Division by email to openrecordsassistance@oag.texas.gov, or by mail to Open Records Division, Attn: Rule Comments, Office of the Attorney General, P.O. Box 12548, Austin, Texas 78711-2548. Comments will be accepted for thirty (30) days from the date of publication of the proposed rules in the *Texas Register*. Comments should be organized in a manner consistent with the organization of the proposed new rules.

To request a public hearing on the proposal, submit a request before the end of the comment period by email to openrecordsassistance@oag.texas.gov, or by mail to Open Records Division, Attn: Rule Comments, Office of the Attorney General, P.O. Box 12548, Austin, Texas 78711-2548.

STATUTORY AUTHORITY

The proposed new Subchapter D in Chapter 63 of 1 TAC are authorized by Texas Government Code §552.405, as added by H.B. 4310 by the 89th Texas Legislature, Regular Session (2025), which requires the OAG to adopt rules, establish procedures, and deadlines for receiving information and briefs necessary to determine whether information covered by a confidentiality agreement is confidential under law.

CROSS-REFERENCE TO STATUTE.

The proposed new sections implement Government Code §§552.401-552.405.

*§63.30. Purpose and Authority.*

(a) This subchapter governs the procedures by which the attorney general shall render a determination sought by a member of a governing board under Texas Government Code §552.405.

(b) This subchapter is adopted under Government Code §552.405, which requires the attorney general by rule to establish procedures and deadlines for receiving information and written comments necessary to determine whether information covered by a confidentiality agreement is confidential under law.

(c) This subchapter is intended to operate consistently with Government Code Chapter 552 and with existing rules governing the submission and review of information claimed to be confidential or excepted from disclosure.

*§63.31. Definitions.*

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

(1) Act--The Texas Public Information Act, Government Code Chapter 552.

(2) Confidentiality agreement--An agreement executed under Government Code §552.404 between a member of a governing board and a governmental body or nongovernmental entity that governs the member's access to information that is confidential under law.

(3) Governing board--The governing body of a governmental body or the governing board of a nongovernmental entity as described by Government Code §552.401.

(4) Governmental body--Has the meaning assigned by Government Code §552.003(1).

(5) Member--A current member of a governing board acting in the member's official capacity who requests or receives access to public information under Government Code §552.401.

(6) Nongovernmental entity--An entity described by Government Code §552.401 that is not a governmental body but that maintains public information subject to the Act.

(7) Request for determination--A written request made to the attorney general under Government Code §552.405(a) seeking a decision whether information covered by a confidentiality agreement is confidential under law.

*§63.32. Who May Request a Determination.*

(a) A member that is a party to a confidentiality agreement may request a determination from the attorney general under Government Code §552.405(a) and this subchapter regarding whether information covered by the confidentiality agreement is confidential under law.

(b) A person who asserts an interest in maintaining the confidentiality of the information may submit briefing and relevant materials in response to a request for determination but may not initiate the request unless authorized by statute.

*§63.33. Form and Content of a Request for Determination.*

(a) A request for determination must:

(1) be in writing and signed by the member requestor;

(2) state the name of the governmental body or nongovernmental entity to whom the original request for information was made;

(3) state the date the original request was made; and

(4) state that the request is made under Government Code §552.405.

(b) The member requestor must submit a copy of the original request with the request for determination. If the member requestor is unable to do so, the member requestor must include a written description of the original request in the request for determination.

(c) The member requestor may submit written comments to the attorney general stating reasons why the requested information should not be considered confidential by law. The written comments must be labeled to indicate whether any portion of the comments discloses or contains the substance of the specific information deemed confidential by the governmental body or nongovernmental entity. A member requestor who submits written comments to the attorney general shall send a copy of those comments to the governmental body or nongovernmental entity.

(d) A member requestor must submit the request for determination and the information required by this subsection not later than the 20th business day after the date the member received the confidentiality agreement.

*§63.34. Notice.*

(a) The attorney general shall notify the governmental body or nongovernmental entity in writing of a request for determination and provide the governmental body or nongovernmental entity a copy of the request for a determination within a reasonable time but not later than the 5th business day after the date of receiving the request for determination.

(b) The attorney general shall provide the member requestor a copy of the written notice to the governmental body or nongovernmental entity, excluding a copy of the request for determination, within a reasonable time but not later than the 5th business day after the date of receiving the request for determination.

*§63.35. Submission of Documents and Comments.*

(a) Within a reasonable time but not later than the 10th business day after the date receiving the attorney general's written notice of the request for decision, a governmental body or nongovernmental entity shall:

(1) submit to the attorney general:

(A) written comments stating the law that deems the requested information confidential and the reasons why the stated law applies to the information;

(B) a copy of the written request for information; and

(C) a copy of the specific information deemed confidential by the governmental body or nongovernmental entity, or representative samples of the information if a voluminous amount of information was requested; and

(2) label the copy of the specific information, or the representative samples, to indicate which laws apply to which parts of the copy; and

(3) label the written comments to indicate whether any portion of the comments discloses or contains the substance of the specific information deemed confidential by the governmental body or nongovernmental entity.

(b) A governmental body or nongovernmental entity that submits written comments to the attorney general shall send a copy of those comments to the member requestor within a reasonable time but not later than the 10th business day after the date of receiving the attorney general's written notice of the request for determination. If the written comments disclose or contain the substance of the information requested, the copy of the comments provided to the person must be a redacted copy.

(c) If a governmental body or nongovernmental entity determines a person may have a property interest in the requested information, the governmental body or nongovernmental entity shall notify that person in accordance with Texas Government Code §552.305(d). The governmental body or nongovernmental entity shall notify the affected person not later than the 10th business day after receiving written notice of the request for determination.

(d) If a person notified in accordance with Texas Government Code 552.305 decides to submit written comments to the attorney general, the person must do so not later than the 10th business day after receiving the notice. The written comments must be labeled to indicate whether any portion of the comments discloses or contains the substance of the specific information deemed confidential by the governmental body or nongovernmental entity.

(e) Any interested person may submit written comments to the attorney general stating why the requested information is or is not confidential. The written comments must be labeled to indicate whether any portion of the comments discloses or contains the substance of the specific information deemed confidential by the governmental body or nongovernmental entity.

(f) A person who submits written comments under subsection (d) or (e) of this section shall send a copy of those comments to both the member requestor and the governmental body or nongovernmental entity.

*§63.36. Additional Information.*

(a) The attorney general may determine whether a governmental body's or nongovernmental entity's submission of information under §63.35 of this subchapter (relating to Submission of Documents and Comments) is sufficient to render a decision.

(b) If the attorney general determines that information in addition to that required by §63.35 of this subchapter is necessary to render a decision, the attorney general shall give written notice of that fact to the governmental body or nongovernmental entity and the member requestor.

(c) A governmental body or nongovernmental entity notified under subsection (b) of this section shall submit the necessary additional information to the attorney general not later than the 7th calendar day after the date the notice is received.

*§63.37. Rendition of Attorney General Determination; Issuance of Written Determination.*

(a) The attorney general shall promptly render a determination requested under this subchapter, not later than the 45th business day after the date the attorney general receives a request for determination that complies with this subchapter.

(b) The attorney general shall issue a written determination and shall provide a copy of the determination to the member requestor, the governmental body or nongovernmental body, and any interested person who submitted necessary information or written comments to the attorney general about the matter.

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

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Justin Gordon
General Counsel
Office of the Attorney General
Earliest possible date of adoption: September 6, 2026
For further information, please call: (512) 423-6984

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# PART 15. TEXAS HEALTH AND HUMAN SERVICES COMMISSION

## CHAPTER 355. REIMBURSEMENT RATES

## SUBCHAPTER J. PURCHASED HEALTH SERVICES

## DIVISION 4. MEDICAID HOSPITAL SERVICES

### 1 TAC §355.8070

The executive commissioner of the Texas Health and Human Services Commission (HHSC) proposes an amendment to §355.8070, concerning Hospital Augmented Reimbursement Program (HARP).

BACKGROUND AND PURPOSE

The purpose of the proposal is to establish a calculation to allow for any unused HARP payment room to be distributed to other eligible hospitals within the same class based on an allocation proportionate to the remaining Medicaid charges in excess of all Medicaid payments, including supplemental payments and the portion of HARP payments for the inpatient fee-for-service (FFS) Medicare payment gap.

An amendment to §355.8070 was adopted and effective on April 2, 2025. That amendment added the Centers for Medicare & Medicaid Services (CMS) definition of a nominal charge provider and clarified that the payment methodology for HARP payments would limit inpatient Medicaid payments so they would not exceed inpatient Medicaid charges for all providers, except those that meet the Medicare definition of a nominal charge provider. This proposal will establish a mechanism to distribute any unused payment room after the limitation is applied to other eligible hospitals within the same class.

Additional edits are made to the rule to correct grammar and punctuation, spell out acronyms for clarity, and reorganize parts where necessary.

SECTION-BY-SECTION SUMMARY

The proposed amendment to §355.8070(a) spells out acronyms and adds punctuation for clarity.

The proposed amendment to §355.8070(b) aligns the rule language with standard HHSC drafting conventions and includes a grammatical correction.

The proposed amendment to §355.8070(d) adds subparagraph (B) to paragraph (3) to explain the allocation of unused payment room as it applies to non-state government-owned and operated hospitals for program periods beginning on or after October 1, 2026. Edits are also made to add punctuation, correct grammar for clarity, and reorganize paragraph (3) to account for the addition of a subparagraph.

The proposed amendment to §355.8070(e) adds subparagraph (B) to paragraph (3) to explain the allocation of unused payment room as it applies to private hospitals for program periods beginning on or after October 1, 2026. Edits are also made to add an acronym, add punctuation, correct grammar for clarity, and reorganize paragraph (3) to account for the addition of a subparagraph.

The proposed amendment to §355.8070(f), (g), and (h) corrects grammar and punctuation for clarity.

FISCAL NOTE

Victoria Grady, Deputy Chief, Finance, has determined that for each year of the first five years that the rule will be in effect, enforcing or administering the rule does not have foreseeable implications relating to costs or revenues of state or local governments.

GOVERNMENT GROWTH IMPACT STATEMENT

HHSC has determined that during the first five years that the rule will be in effect:

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

(2) implementation of the proposed rule will not affect the number of HHSC employee positions;

(3) implementation of the proposed rule will result in no assumed change in future legislative appropriations;

(4) the proposed rule will not affect fees paid to HHSC;

(5) the proposed rule will not create a new regulation;

(6) the proposed rule will not expand, limit, or repeal existing regulations;

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

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

SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT ANALYSIS

Victoria Grady has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities. The rule does not impose any additional costs on small businesses, micro-businesses, or rural communities that are required to comply with the rule.

LOCAL EMPLOYMENT IMPACT

The proposed rule will not affect a local economy.

COSTS TO REGULATED PERSONS

Texas Government Code §2001.0045 does not apply to this rule because the rule does not impose a cost on regulated persons.

PUBLIC BENEFIT AND COSTS

Megan Wolfe, Director of Provider Finance, has determined that for each year of the first five years the rule is in effect, the public will benefit from the adoption of the rule as it will allow for any unused HARP payment room to be distributed to other hospitals

within the same class. This allows for additional HARP payments to eligible hospitals.

Victoria Grady has also determined that for the first five years the rule is in effect, there are no anticipated economic costs to persons who are required to comply with the proposed rule because the rule does not impose any additional fees or costs on those who are required to comply.

TAKINGS IMPACT ASSESSMENT

HHSC has determined that the proposal does not restrict or limit an owner's right to the owner's property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking under Texas Government Code §2007.043.

PUBLIC HEARING

A public hearing to receive comments on the proposal will be held by HHSC through a webinar. The meeting date and time will be posted on the HHSC Communications and Events Website at https://hhs.texas.gov/about-hhs/communications-events and the HHSC Provider Finance communications website at https://pfd.hhs.texas.gov/provider-finance-communications.

Please contact the Provider Finance Department, Hospital Finance section at pfd_hospitals@hhsc.state.tx.us if you have questions.

PUBLIC COMMENT

Written comments on the proposal, including information related to the cost, benefit, or effect of the proposed rule, as well as any applicable data, research, or analysis, may be submitted to Rules Coordination Office, P.O. Box 13247, Mail Code 4102, Austin, Texas 78711-3247, or street address 4601 West Guadalupe Street, Austin, Texas 78751; or emailed to HHSRulesCoordinationOffice@hhs.texas.gov.

To be considered, comments must be submitted no later than 14 days after the date of this issue of the *Texas Register*. Comments must be (1) postmarked or shipped before the last day of the comment period; (2) hand-delivered before 5:00 p.m. on the last working day of the comment period; or (3) emailed before midnight on the last day of the comment period. If the last day to submit comments falls on a holiday, comments must be postmarked, shipped, or emailed before midnight on the following business day to be accepted. When emailing comments, please indicate "Comments on Proposed Rule 26R088" in the subject line.

STATUTORY AUTHORITY

The amendment is authorized by 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; Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority; Texas Human Resources Code §32.021 and Texas Government Code §532.0051, which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas; and Texas Government Code §532.0057(a), which establishes HHSC as the agency responsible for adopting reasonable rules governing the determination of fees, charges, and rates for Medicaid payments under Texas Human Resources Code Chapter 32.

The amendment affects Texas Government Code Chapter 532 and Texas Human Resources Code Chapter 32.

*§355.8070. Hospital Augmented Reimbursement Program.*

(a) Introduction. This section establishes the Hospital Augmented Reimbursement Program (HARP) [~~Program~~], wherein the Texas Health and Human Services Commission (HHSC) directs payments to certain providers that serve Texas Medicaid fee-for-service patients, including eligible non-state government-owned [~~government owned~~] hospitals, private hospitals, state government-owned [~~state-owned~~] hospitals, state government-owned Institutions for Mental Diseases (IMDs), and private IMDs. This section also describes the methodology used by HHSC to calculate and administer such payments. A provider is eligible for a payment under this section only if HHSC has submitted and Centers for Medicare & Medicaid Services (CMS) [~~CMS~~] has approved a state plan amendment permitting HHSC to make payments under this section to the hospital class to which the provider belongs.

(b) Definitions. The following terms in this section have the following meanings, unless the context clearly indicates otherwise. [~~definitions apply when the terms are used in this section.~~]

(1) Fee-for-Service (FFS)--A system of the health insurance payment in which a health care provider is paid a fee by HHSC through the contracted Medicaid claims administrator directly, for each service rendered. For Texas Medicaid purposes, fee-for-service excludes any service rendered under a managed care program through a managed care organization.

(2) Inpatient hospital services--Services ordinarily furnished in a hospital for the care and treatment of inpatients under the direction of a physician or dentist, or a subset of these services identified by HHSC. Inpatient hospital services do not include services furnished in a skilled nursing facility, intermediate care facility services furnished by a hospital with swing-bed approval, or any other services that HHSC determines should not be subject to payment.

(3) Intergovernmental transfer (IGT)--A transfer of public funds from another state agency or a non-state governmental entity to HHSC.

(4) Medicare payment gap--The difference between what Medicare is estimated to pay for the services and what Medicaid actually paid for the same services from the most recent FFS upper payment limit (UPL) demonstration.

(5) Nominal charge provider--A provider that charges an amount equal to 60 percent or less of the reasonable cost of service or services. Nominal charges mean Medicare charges are at or below a ratio equal to 0.6 of reasonable costs which equates to a Medicare ratio of cost to charge (RCC) that exceeds 1.67. Charges and costs are based on inpatient hospital services only.

(6) Non-state government-owned and operated hospital--A hospital that is owned and operated by a local government entity, including [~~but not limited to~~] a city, county, or hospital district.

(7) Outpatient hospital services--Preventive, diagnostic, therapeutic, rehabilitative, or palliative services that are furnished to outpatients of a hospital under the direction of a physician or dentist, or a subset of these services identified by HHSC.

(8) Private hospital--Any hospital that is not government-owned and operated.

(9) Private Institution for Mental Diseases (IMD)--A hospital that is primarily engaged in providing psychiatric diagnosis, treatment or care of individuals with mental illness and that is not government-owned and operated.

(10) Program period--Each program period is equal to a federal fiscal year beginning October 1 and ending September 30 of the following year.

(11) Prospective Payment System--A method of reimbursement in which payment is made based on a predetermined, fixed amount.

(12) Sponsoring governmental entity--A state or non-state governmental entity that agrees to transfer to HHSC some or all of the non-federal share of program expenditures under this subchapter.

(13) State government-owned hospital--Any hospital owned by the state of Texas that is not considered an IMD.

(14) State government-owned IMD--A hospital that is primarily engaged in providing psychiatric diagnosis, treatment or care of individuals with mental illness and that is owned by the state of Texas that is considered an IMD.

(c) Participation requirements. As a condition of participation, all hospitals participating in the program must allow for the following.

(1) The hospital must submit a properly completed enrollment application by the due date determined by HHSC. The enrollment period must be no less than 15 business days, and the final date of the enrollment period will be at least nine days prior to the intergovernmental transfer (IGT) notification.

(2) If a provider has changed ownership in the past five years in a way that impacts eligibility for this program, the provider must submit to HHSC, upon demand, copies of contracts it has with third parties with respect to the transfer of ownership or the management of the provider and which reference the administration of, or payment from, this program.

(d) Payments for non-state government-owned and operated hospitals.

(1) Eligible hospitals. Payments under this subsection will be limited to hospitals defined as "non-state government-owned [~~government owned~~] and operated hospital" that are enrolled in Medicare and participate in Texas Medicaid fee-for-service.

(2) Non-federal share of program payments. The non-federal share of the payments is funded through IGTs from sponsoring governmental entities. No state general revenue is available to support the program.

(A) HHSC will communicate suggested IGT responsibilities. Suggested IGT responsibilities will be based on the maximum dollars to be available under the program for the program period, as determined by HHSC. HHSC will also communicate estimated revenues each enrolled hospital could earn under the program for the program period, with those estimates based on HHSC's suggested IGT responsibilities.

(B) HHSC will issue an IGT notification to specify the date that IGT is requested to be transferred, not fewer than 14 business days before IGT transfers are due. HHSC may post the IGT deadlines and other associated information on HHSC's website, send the information through the established Medicaid notification procedures used by HHSC's fiscal intermediary, send through other direct mailing, send through GovDelivery, or provide the information to the hospital associations to disseminate to the hospital associations' [~~their~~] member hospitals.

(3) Payment Methodology.

(A) To determine each participating non-state government-owned and operated hospital's payment under this section, HHSC will sum the hospital's inpatient FFS Medicare payment gap and the hospital's outpatient FFS Medicare payment gap. HARP payments will be limited such that total inpatient Medicaid payments, including supplemental payments and the portion of HARP payments for the inpatient FFS Medicare payment gap, do not exceed Medicaid charges. Nominal charge providers as defined in subsection (b) of this section are exempt from this limitation.

(B) For program periods beginning on or after October 1, 2026, HHSC will also allocate to participating hospitals in the class any total inpatient FFS Medicare payment gap that remains after payment allocations under subparagraph (A) of this paragraph are made. The allocation will be proportional to the calculated amount of inpatient FFS excess Medicaid charges. HHSC will limit payments under this subparagraph such that the total inpatient Medicaid payments for each participating hospital do not exceed Medicaid charges. Medicaid payments include supplemental payments and payments made under this paragraph. Nominal charge providers as defined in subsection (b) of this section are exempt from this limitation.

(e) Payments for private hospitals.

(1) Eligible hospitals. Payments under this subsection will be limited to hospitals defined as "private hospital" in subsection (b) of this section that are enrolled in Medicare and participate in Texas Medicaid fee-for-service.

(2) Non-federal share of program payments. The non-federal share of the payments is funded through IGTs from sponsoring governmental entities. No state general revenue is available to support the program.

(A) HHSC must receive the non-federal portion of reimbursement for HARP through a method approved by HHSC and CMS [~~Centers for Medicare & Medicaid Services (CMS)~~] for reimbursement through this program.

(B) A hospital under this subsection must designate a single local governmental entity to provide the non-federal share of the payment through a method determined by HHSC. If the single local governmental entity transfers less than the full non-federal share of a hospital's payment amount calculated in any paragraph under this subchapter, HHSC will recalculate that specific hospital's payment based on the amount of the non-federal share actually transferred.

(C) HHSC will communicate suggested IGT responsibilities. Suggested IGT responsibilities will be based on the maximum dollars to be available under the program for the program period, as determined by HHSC. HHSC will also communicate estimated revenues each enrolled hospital could earn under the program for the program period, with those estimates based on HHSC's suggested IGT responsibilities.

(D) HHSC will issue an IGT notification to specify the date that IGT is requested to be transferred, not fewer than 14 business days before IGT transfers are due. HHSC may post the IGT deadlines and other associated information on HHSC's website, send the information through the established Medicaid notification procedures used by HHSC's fiscal intermediary, send through other direct mailing, send through GovDelivery, or provide the information to the hospital associations to disseminate to the hospital associations' [~~their~~] member hospitals.

(3) Payment Methodology.

(A) To determine each participating private hospital's payment under this section, HHSC will sum the hospital's inpatient FFS Medicare payment gap and the hospital's outpatient FFS Medicare payment gap. HARP payments will be limited such that total inpatient

Medicaid payments, including supplemental payments and the portion of HARP payments for the inpatient FFS Medicare payment gap, do not exceed Medicaid charges. Nominal charge providers as defined in subsection (b) of this section are exempt from this limitation.

(B) For program periods beginning on or after October 1, 2026, HHSC will also allocate to participating hospitals in the class any total inpatient FFS Medicare payment gap that remains after payment allocations under subparagraph (A) of this paragraph are made. The allocation will be proportional to the calculated amount of inpatient FFS excess Medicaid charges. HHSC will limit payments under this subparagraph such that the total inpatient Medicaid payments for each participating hospital do not exceed Medicaid charges. Medicaid payments include supplemental payments and payments made under this paragraph. Nominal charge providers as defined in subsection (b) of this section are exempt from this limitation.

(f) Payments for state government-owned hospitals.

(1) Eligible hospitals. Payments under this subsection will be limited to hospitals defined as "state government-owned hospital" in subsection (b) of this section that are enrolled in Medicare and participate in Texas Medicaid fee-for-service.

(2) Non-federal share of program payments. The non-federal share of the payments is funded through IGTs from sponsoring governmental entities. No state general revenue is available to support the program.

(A) HHSC must receive the non-federal portion of reimbursement for HARP through a method approved by HHSC and CMS for reimbursement through this program.

(B) A hospital under this subsection must designate a single local governmental entity to provide the non-federal share of the payment through a method determined by HHSC. If the single local governmental entity transfers less than the full non-federal share of a hospital's payment amount calculated in any paragraph under this subchapter, HHSC will recalculate that specific hospital's payment based on the amount of the non-federal share actually transferred.

(C) HHSC will communicate suggested IGT responsibilities. Suggested IGT responsibilities will be based on the maximum dollars to be available under the program for the program period, as determined by HHSC. HHSC will also communicate estimated revenues each enrolled hospital could earn under the program for the program period, with those estimates based on HHSC's suggested IGT responsibilities.

(D) HHSC will issue an IGT notification to specify the date that IGT is requested to be transferred, not fewer than 14 business days before IGT transfers are due. HHSC will publish the IGT deadlines and all associated dates on the HHSC [~~its Internet~~] website.

(3) Payment Methodology.

(A) To determine payment under this section for each participating state government-owned [~~state-owned~~] hospital reimbursed through Prospective Payment System (PPS), HHSC will sum the hospital's inpatient FFS Medicare payment gap and the hospital's outpatient FFS Medicare payment gap. HARP payments will be limited such that total inpatient Medicaid payments, including supplemental payments and the portion of HARP payments for the inpatient FFS Medicare payment gap, do not exceed Medicaid charges. Nominal charge providers as defined in subsection (b) of this section are exempt from this limitation.

(B) To determine payment under this section for each participating state government-owned [~~state-owned~~] hospital not reimbursed through Prospective Payment System (PPS), HHSC will use the hospital's FFS outpatient Medicare payment gap.

(g) Payments for state government-owned IMDs.

(1) Eligible hospitals.

(A) Payments under this subsection will be limited to hospitals defined as "state government-owned IMD" in subsection (b) of this section that are enrolled in Medicare and participate in Texas Medicaid fee-for-service.

(B) The hospital must have submitted at least one adjudicated FFS Medicaid claim for each reporting period to be eligible for payment.

(2) Non-federal share of program payments. The non-federal share of the payments is funded through IGTs from sponsoring governmental entities. No state general revenue is available to support the program.

(A) HHSC must receive the non-federal portion of reimbursement for HARP through a method approved by HHSC and CMS for reimbursement through this program.

(B) A hospital under this subsection must designate a single local governmental entity to provide the non-federal share of the payment through a method determined by HHSC. If the single local governmental entity transfers less than the full non-federal share of a hospital's payment amount calculated in any paragraph under this subchapter, HHSC will recalculate that specific hospital's payment based on the amount of the non-federal share actually transferred.

(C) HHSC will communicate suggested IGT responsibilities. Suggested IGT responsibilities will be based on the maximum dollars to be available under the program for the program period, as determined by HHSC. HHSC will also communicate estimated revenues each enrolled hospital could earn under the program for the program period, with those estimates based on HHSC's suggested IGT responsibilities.

(D) HHSC will issue an IGT notification to specify the date that IGT is requested to be transferred, not fewer than 14 business days before IGT transfers are due. HHSC may post the IGT deadlines and other associated information on HHSC's website, send the information through the established Medicaid notification procedures used by HHSC's fiscal intermediary, send through other direct mailing, send through GovDelivery, or provide the information to the hospital associations to disseminate to their member hospitals.

(3) Payment Methodology. To determine each participating state government-owned IMD hospital's payment under this section, HHSC will use the hospital's inpatient FFS Medicare payment gap. HARP payments will be limited such that total inpatient Medicaid payments, including supplemental payments and the portion of HARP payments for the inpatient FFS Medicare payment gap, do not exceed Medicaid charges. Nominal charge providers as defined in subsection (b) of this section are exempt from this limitation.

(h) Payments for private IMDs.

(1) Eligible hospitals.

(A) Payments under this subsection will be limited to hospitals defined as "private IMD" in subsection (b) of this section that participate in Texas Medicaid fee-for-service.

(B) The hospital must have submitted at least one adjudicated FFS Medicaid claim for each reporting period to be eligible for payment.

(2) Non-federal share of program payments. The non-federal share of the payments is funded through IGTs from sponsoring governmental entities. No state general revenue is available to support the program.

(A) HHSC must receive the non-federal portion of reimbursement for HARP through a method approved by HHSC and CMS for reimbursement through this program.

(B) A hospital under this subsection must designate a single local governmental entity to provide the non-federal share of the payment through a method determined by HHSC. If the single local governmental entity transfers less than the full non-federal share of a hospital's payment amount calculated in any paragraph under this subchapter, HHSC will recalculate that specific hospital's payment based on the amount of the non-federal share actually transferred.

(C) HHSC will communicate suggested IGT responsibilities. Suggested IGT responsibilities will be based on the maximum dollars to be available under the program for the program period, as determined by HHSC. HHSC will also communicate estimated revenues each enrolled hospital could earn under the program for the program period, with those estimates based on HHSC's suggested IGT responsibilities.

(D) HHSC will issue an IGT notification to specify the date that IGT is requested to be transferred, not fewer than 14 business days before IGT transfers are due. HHSC may post the IGT deadlines and other associated information on HHSC's website, send the information through the established Medicaid notification procedures used by HHSC's fiscal intermediary, send through other direct mailing, send through GovDelivery, or provide the information to the hospital associations to disseminate to the hospital associations' [~~their~~] member hospitals.

(3) Payment Methodology. To determine each participating private IMD hospital's payment under this section, HHSC will use the hospital's inpatient FFS Medicare payment gap. HARP payments will be limited such that total inpatient Medicaid payments, including supplemental payments and the portion of HARP payments for the inpatient FFS Medicare payment gap, do not exceed Medicaid charges. Nominal charge providers as defined in subsection (b) of this section are exempt from this limitation.

(i) Changes in operation. If an enrolled hospital closes voluntarily or ceases to provide hospital services in its facility, the hospital must notify the HHSC Provider Finance Department by hand delivery, United States (U.S.) mail, or special mail delivery within 10 business days of closing or ceasing to provide hospital services. Notification is considered to have occurred when the HHSC Provider Finance Department receives the notice.

(j) Reconciliation. HHSC will reconcile the amount of the non-federal funds actually expended under this section during the program period with the amount of funds transferred to HHSC by the sponsoring governmental entities for that same period. If the amount of non-federal funds actually expended under this section is less than the amount transferred to HHSC, HHSC will refund the balance proportionally to how it was received.

(k) Payments under this section will be made on a semi-annual basis.

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

Filed with the Office of the Secretary of State on July 22, 2026.

TRD-202603052
Karen Ray
Chief Counsel
Texas Health and Human Services Commission
Earliest possible date of adoption: September 6, 2026
For further information, please call: (512) 487-3480

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# TITLE 16. ECONOMIC REGULATION

## PART 4. TEXAS DEPARTMENT OF LICENSING AND REGULATION

### CHAPTER 140. ADMINISTRATION OF TEXAS LOTTERY AND CHARITABLE BINGO

The Texas Department of Licensing and Regulation (Department) proposes repeal of an existing rule at 16 Texas Administrative Code (TAC), Chapter 140, Subchapter A, §140.2; amendments to existing rules at Subchapter B, §§140.152, 140.153, 140.157, 140.158 and §140.160; and Subchapter E, §140.355 and §140.368; and a new rule at Subchapter E, §140.369, regarding the Texas Lottery program. These proposed changes are referred to as "proposed rules."

EXPLANATION OF AND JUSTIFICATION FOR THE RULES

The rules under 16 TAC, Chapter 140, implement Texas Government Code, Chapter 466, State Lottery; and Texas Occupations Code, Chapter 51, Texas Department of Licensing and Regulation.

The proposed rules are necessary to implement Senate Bill (SB) 1346 and SB 3070, 89th Legislature, Regular Session (2025), and to make related cleanup changes to conform the rules to the transfer of the state lottery to the Department. SB 1346 prohibits licensed lottery ticket sales agents from knowingly selling or allowing the sale of tickets for a lottery game involving a drawing to anyone attempting to buy all or substantially all possible winning tickets for a drawing. After a hearing, the Texas Commission of Licensing and Regulation (Commission) shall revoke the license of an agent who violates this prohibition for each of the sales agent's licensed locations. A revoked agent cannot reapply for a license before the first anniversary of the license revocation date. The proposed rules implement SB 1346 by adding this prohibited conduct as a basis for license suspension or revocation, updating the Standard Penalty Chart to include the violation, and adding a reapplication restriction for a person whose license has been revoked for this conduct.

SB 3070, which transferred administration of the state lottery to the Department on September 1, 2025, makes it a Class B misdemeanor for a person to sell more than 100 lottery tickets to one individual in a single transaction; authorizes a person to buy a ticket only in person at a licensed sales agency during normal business hours; and requires a licensed sales agent or an agent's employee to use a process prescribed by a rule to verify the age of each ticket purchaser at the point of sale. A person who violated this requirement would commit a Class B misdemeanor. SB 3070 also prohibits a person from using a telephone, Internet application, or mobile Internet application to purchase or order a ticket for a lottery game, or, for compensation, to accept a ticket order for a lottery game from a player, sell a ticket to a player, or arrange to purchase or for another person to purchase a ticket on behalf of a player. An offense under these provisions

is a Class A misdemeanor. SB 3070 revises the offense of selling a ticket to a minor to specify that a person commits an offense if the person did so with criminal negligence, rather than knowingly and intentionally. Finally, SB 3070 prohibits the Department from providing a licensed location of a sales agent with more than five lottery vending machines, lottery computer terminals, or items of lottery equipment that print tickets.

The proposed rules implement SB 3070 by conforming Chapter 140 to the transfer of the state lottery to the Department, incorporating the new statutory ticket-sales requirements and prohibitions into the retailer and enforcement rules, updating the Standard Penalty Chart to reflect those changes, and establishing limitations on the placement of certain lottery equipment at licensed sales locations. The proposed rules also make technical and cleanup changes to update cross-references, remove outdated references, and improve consistency within Chapter 140.

*Advisory Committee Recommendations*

The proposed rules were presented to and discussed by the Lottery Advisory Committee at its meeting on July 15, 2026. The Advisory Committee did not recommend any changes to the proposed rules and voted to recommend that the proposed rules be published in the *Texas Register* for public comment. After the Advisory Committee meeting, the Department made limited changes to the proposed rules in response to further internal review. The changes revise §140.158(b)(5) to replace the reference to discourteous conduct with a more specific reference to abusive conduct; clarify in the Standard Penalty Chart that a violation of Government Code §466.1555 results in revocation at all licensed locations of the licensee; revise §140.369(b) to apply the five-machine limitation to lottery vending machines unless additional machines are approved by the director; and replace "entries" with "tickets" in §140.369(d). The Department also made a nonsubstantive capitalization correction in §140.152(a). These changes address concerns regarding clarity and specificity and more closely conform the proposed rules to the applicable statutory requirements.

SECTION-BY-SECTION SUMMARY

*Subchapter A. Lottery Procurement, Lottery Advisory Committee, and Bingo Advisory Committee*

The proposed rules amend the heading of Subchapter A to remove the reference to the Bingo Advisory Committee because §140.2, concerning that committee, is being repealed.

The proposed rules repeal §140.2, because the substance of this rule has been consolidated into and is now fully addressed in §141.102, relating to Bingo Advisory Committee. As a result of this consolidation, §140.2 is no longer necessary and its repeal eliminates redundancy and improves clarity within the Department's rules.

*Subchapter B. Licensing of Sales Agents*

The proposed amendments to §140.152 update references to "commission" to "department," and update a cross-reference to a rule that was transferred from Chapter 401 to Chapter 140 and renumbered effective October 1, 2025. The proposed amendments also delete a reference to the director of the Lottery Operations Division, clarifying that the term "director" in the rule will instead refer to the executive director or his/her designee. After the Advisory Committee recommended publication of the proposed rules, the Department made a nonsubstantive capitalization correction in §140.152(a). This correction does not substantively differ from the rule recommended by the Advisory Committee.

The proposed amendments to §140.153 update references to "commission" to "department" throughout the rule. The proposed amendments add new subsection (g), which states that a person whose license is revoked under Tex. Gov't Code §466.1555(b) and §140.158 may not reapply for a license until one year after the revocation date. The proposed amendments also update cross-references to rules that were transferred from Chapter 401 to Chapter 140 and renumbered effective October 1, 2025.

The proposed amendments to §140.157 update references to "commission" with "department," and update cross-references to rules that were transferred from Chapter 401 to Chapter 140 and renumbered effective October 1, 2025. The proposed amendments also correct a typo.

The proposed amendments to §140.158 update references to "commission" to "department" throughout the rule, and update cross-references to rules that were transferred from Chapter 401 to Chapter 140 and renumbered effective October 1, 2025. The proposed amendments to §140.158(b) add new paragraph (39), which provides a basis for license suspension or revocation if a licensee sells to one individual more than 100 lottery tickets in a single transaction, whether draw game tickets, scratch tickets, or any combination; renumber existing paragraphs (39), (40), (41), and (42) as new paragraphs (40), (41), (42), and (43); and revise renumbered paragraph (40), relating to selling a ticket to a minor, to reflect that a person commits an offense if the person did so with criminal negligence, rather than knowingly and intentionally. The proposed amendments to §140.158(b) also add new paragraph (44), which provides a basis for license revocation if a licensee knowingly sells or allows the sale of tickets for a lottery game involving a drawing to one or more persons attempting to purchase all or substantially all possible winning tickets for the drawing; new paragraph (45), which provides a basis for license revocation if a licensee fails to verify the age of each ticket purchaser at the point of sale; new paragraph (46), which provides a basis for license revocation if a licensee, by telephone, Internet application, or mobile Internet application, facilitates the purchase or orders the purchase of a ticket for a lottery game; new paragraph (47), which provides a basis for license revocation if a licensee, by telephone, Internet application, or mobile Internet application, for compensation, accepts an order for a ticket for a lottery game from a player, sells a ticket for a lottery game to a player, or arranges to purchase a ticket on behalf of a person playing a lottery game, or for another person to purchase a ticket on behalf of a person playing a lottery game; and new paragraph (48), which provides a basis for license revocation if a licensee sells tickets to a person who is not physically present at the retailer's location, a person outside the retailer's licensed location, or to a person outside the normal business hours of the retailer's licensed location. The proposed amendments also renumber existing paragraph (43) as paragraph (49) and add new subsection (d), which defines "ticket" for purposes of the chapter as a single scratch ticket or a single draw game ticket that may include multiple plays per ticket. After the Advisory Committee recommended publication of the proposed rules, the Department revised §140.158(b)(5) to replace "discourteous treatment" with "abusive treatment." This change differs from the language recommended by the Advisory Committee and was made to remove a potentially subjective standard.

The proposed amendments to §140.160 update references to "commission" with "department," and update cross-references to rules that were transferred from Chapter 401 to Chapter 140 and renumbered effective October 1, 2025. The proposed amend-

ments also clarify that the executive director or commission may assess penalties for violations and may deviate from the Standard Penalty Chart unless otherwise required by statute. The proposed amendments to §140.160(h) update the figure 16 TAC §140.160(h), Standard Penalty Chart, to reflect the addition of new violation 39, the amendment and renumbering of violation 40, the renumbering of violations 41, 42, and 43, and the addition of new violations Nos. 44, 45, 46, 47, and 48, corresponding to the proposed amendments to §140.158(b)(39)-(48), as outlined above. After the Advisory Committee recommended publication of the proposed rules, the Department revised the Standard Penalty Chart to clarify that the penalty for violation 44 is revocation of all licensed locations of the licensee, consistent with Government Code §466.1555(b). This clarification differs from the language recommended by the Advisory Committee but does not change the statutorily required penalty.

*Subchapter E. Retailer Rules*

The proposed amendments to §140.355 update references to "commission" to "department". The proposed amendments add new subsection (d), which requires each retailer to electronically access the electronically readable information on a ticket purchaser's driver's license, commercial driver's license, or personal identification certificate to verify the age of each ticket purchaser at the point of sale, and allows the retailer to visually inspect the identification if the retailer cannot access the electronically readable information; add new subsection (g), which prohibits retailers from selling to one individual more than 100 lottery tickets in a single transaction; and add new subsection (h), which prohibits retailers from selling tickets to persons who are not physically present at the retailer's location, who are outside the retailer's licensed location, or outside the normal business hours of the retailer's licensed location.

The proposed amendments to §140.368 update references to "commission" to "department" throughout the rule.

The proposed rules add §140.369, which establishes limitations on certain lottery equipment supplied to licensed sales locations. Subsection (a) provides that a licensed location may not be supplied with more than five traditional lottery terminals unless additional terminals are approved by the director and requires that the number of terminals not be disproportionate to the amount of legitimate retail business conducted at the location. Subsection (b) establishes the same limitations for lottery vending machines, consistent with Government Code §466.259. Subsection (c) temporarily exempts Texas Lottery promotional events from the five-terminal limit and allows additional equipment approved by the director to support those activities. Subsection (d) defines "traditional lottery terminal" for purposes of the section. After the Advisory Committee recommended publication of the proposed rules, the Department revised subsection (b) to apply the five-machine limitation to lottery vending machines unless additional machines are approved by the director. This differs from the version recommended by the Advisory Committee, which exempted lottery vending machines from the limitation. The Department also replaced "entries" with "tickets" in subsection (d) for clarity.

FISCAL IMPACT ON STATE AND LOCAL GOVERNMENT

Tony Couvillon, Senior Policy Research and Budget Analyst, has determined that for each year of the first five years the proposed rules are in effect, there are no estimated additional costs or reductions in costs to state or local government as a result of enforcing or administering the proposed rules.

Mr. Couvillon has determined that for each year of the first five years the proposed rules are in effect, there is no estimated increase or loss in revenue to the state or local government as a result of enforcing or administering the proposed rules.

Mr. Couvillon has determined that for each year of the first five years the proposed rules are in effect, enforcing or administering the proposed rules does not have foreseeable implications relating to costs or revenues of state governments or local governments.

LOCAL EMPLOYMENT IMPACT STATEMENT

Because Mr. Couvillon has determined that the proposed rules will not affect a local economy, the agency is not required to prepare a local employment impact statement under Texas Government Code §2001.022.

PUBLIC BENEFITS

Mr. Couvillon also has determined that for each year of the first five-year period the proposed rules are in effect, the public benefit will be ensuring that the lottery is administered fairly and that the public can have confidence in the integrity of lottery games. The proposed rules will also help ensure that only adults can purchase lottery tickets, and will provide clearer rules for licensed sales agents and retailers regarding restricted sales, age verification, ticket-purchase limits, and limitations on certain lottery equipment.

PROBABLE ECONOMIC COSTS TO PERSONS REQUIRED TO COMPLY WITH PROPOSAL

Mr. Couvillon has determined that for each year of the first five-year period the proposed rules are in effect, there are no anticipated economic costs to persons who are required to comply with the proposed rules.

FISCAL IMPACT ON SMALL BUSINESSES, MICRO-BUSINESSES, AND RURAL COMMUNITIES

There will be no adverse economic effect on small businesses, micro-businesses, or rural communities as a result of the proposed rules. Because the agency has determined that the proposed rules will have no adverse economic effect on small businesses, micro-businesses, or rural communities, preparation of an Economic Impact Statement and a Regulatory Flexibility Analysis, as detailed under Texas Government Code §2006.002, is not required.

ONE-FOR-ONE REQUIREMENT FOR RULES WITH A FISCAL IMPACT

The proposed rules do not have a fiscal note that imposes a cost on regulated persons, including another state agency, a special district, or a local government. Therefore, the agency is not required to take any further action under Texas Government Code §2001.0045.

GOVERNMENT GROWTH IMPACT STATEMENT

Pursuant to Texas Government Code §2001.0221, the agency provides the following Government Growth Impact Statement for the proposed rules. For each year of the first five years the proposed rules will be in effect, the agency has determined the following:

1. The proposed rules do not create or eliminate a government program.

2. Implementation of the proposed rules does not require the creation of new employee positions or the elimination of existing employee positions.

3. Implementation of the proposed rules does not require an increase or decrease in future legislative appropriations to the agency.

4. The proposed rules do not require an increase or decrease in fees paid to the agency.

5. The proposed rules create a new regulation. The proposed rules create a new regulation by prohibiting a person whose license has been revoked for selling or allowing the sale of lottery draw tickets to a person or persons attempting to purchase all or substantially all possible winning tickets for the drawing from applying for a license before the first anniversary of the license revocation date, and by setting limitations on the placement of lottery terminals.

6. The proposed rules expand, limit, or repeal an existing regulation. The proposed rules expand existing regulations by adding new grounds for license suspension or revocation; adding new retailer restrictions for age verification, ticket-purchase limits, and in-person sales during normal business hours; and updating the Standard Penalty Chart to reflect the proposed changes. The proposed rules limit an existing regulation by removing the requirement for a person seeking to inspect a license application to submit a written request to the executive director specifically stating the information sought to be inspected. The proposed rules repeal an existing regulation by repealing §140.2, Bingo Advisory Committee, because the substance of that rule has been consolidated into §141.102.

7. The proposed rules do not increase or decrease the number of individuals subject to the rules' applicability.

8. The proposed rules do not positively or adversely affect this state's economy.

TAKINGS IMPACT ASSESSMENT

The Department has determined that no private real property interests are affected by the proposed rules and the proposed rules do not restrict, limit, or impose a burden on an owner's rights to his or her private real property that would otherwise exist in the absence of government action. As a result, the proposed rules do not constitute a taking or require a takings impact assessment under Texas Government Code §2007.043.

PUBLIC COMMENTS AND INFORMATION RELATED TO THE COST, BENEFIT, OR EFFECT OF THE PROPOSED RULES

The Department is requesting public comments on the proposed rules and information related to the cost, benefit, or effect of the proposed rules, including any applicable data, research, or analysis. Any information that is submitted in response to this request must include an explanation of how and why the submitted information is specific to the proposed rules. Please do not submit copyrighted, confidential, or proprietary information.

Comments on the proposed rules and responses to the request for information may be submitted electronically on the Department's website at https://ga.tdlr.texas.gov:1443/form/Ch140_Rule_Making; by facsimile to (512) 344-5189; or by mail to Dorota Bienkowska, Legal Assistant, Texas Department of Licensing and Regulation, P.O. Box 16630, Austin, Texas 78761. The deadline for comments is 30 days after publication in the *Texas Register*.

## SUBCHAPTER A. LOTTERY PROCUREMENT, LOTTERY ADVISORY COMMITTEE, AND BINGO ADVISORY COMMITTEE

### 16 TAC §140.2

The proposed repeal is proposed under Texas Government Code, Chapter 466, and Texas Occupations Code, Chapter 51, 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 proposed rules are those set forth in Texas Government Code, Chapter 466, and Texas Occupations Code, Chapter 51. No other statutes, articles, or codes are affected by the proposed rules.

The legislation that enacted the statutory authority under which the proposed rules are to be adopted are Senate Bill (SB) 1346 and SB 3070, 89th Legislature, Regular Session (2025).

*§140.2. Bingo Advisory Committee.*

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

Filed with the Office of the Secretary of State on July 27, 2026.

TRD-202603159
Deanne Rienstra
General Counsel
Texas Department of Licensing and Regulation
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For further information, please call: (512) 344-5392

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## SUBCHAPTER B. LICENSING OF SALES AGENTS

### 16 TAC §§140.152, 140.153, 140.157, 140.158, 140.160

STATUTORY AUTHORITY

The proposed rules are proposed under Texas Government Code, Chapter 466, and Texas Occupations Code, Chapter 51, 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 proposed rules are those set forth in Texas Government Code, Chapter 466, and Texas Occupations Code, Chapter 51. No other statutes, articles, or codes are affected by the proposed rules.

The legislation that enacted the statutory authority under which the proposed rules are to be adopted are Senate Bill (SB) 1346 and SB 3070, 89th Legislature, Regular Session (2025).

*§140.152. Application for License.*

(a) An applicant for a license under this subchapter must apply to the Texas Department of Licensing and Regulation (department) [~~Commission~~] using forms provided by the department [~~Commission~~].

(b) The executive director (director) or his/her designee shall develop all forms and related documents including, but not limited to,

an application form, release form to obtain a credit report, and/or any other background information relating to the applicant required to determine the applicant's eligibility for a license and whether the granting of a license to the applicant will best serve the public convenience. An applicant must disclose all criminal convictions for those individuals of whom an investigation is authorized under the Government Code, §466.201, and which are requested in the application.

(c) An applicant shall, under penalty of perjury, complete, sign, date, and submit all forms and related information and documents required. By signing and submitting the application form, the applicant agrees to allow the director [~~of the Lottery Operations Division (hereinafter "director")~~] to investigate the credit, criminal, and tax background of the applicant and other matters as authorized under the State Lottery Act (Act), Government Code, Chapter 466.

(d) Every application for a license submitted under this subchapter shall be accompanied by a license application fee in an amount to be established by the director. If the director denies an application for a license based on a factor listed in §140.153(a) [~~§401.153(a) of this title~~] (relating to Qualifications for License), the director shall refund one half of the application fee to the applicant. If the director denies an application based on another factor, the director may not refund any part of the application fee. If an applicant fails to provide all forms and related information and documents required as part of the application, the director may cancel the application without making a determination to deny. If the director cancels an application, the director shall not refund any part of the application fee.

(e) Every license application submitted to the director under this subchapter shall be accompanied by security as authorized by the Government Code, §466.156(a), in a form and amount determined by the director. The director may reduce or waive the amount of security required, if feasible, after consideration of the possible loss to the state from the operation of the applicant in connection with the lottery, whether the applicant is a minority business as defined by Government Code, §466.107, or any other factor the director finds relevant. If the director determines that the purposes of the Act would be best served through establishment and maintenance of a pooled fund for purposes of reimbursing the division for losses arising from the operation of licensed sales agents, the director may require security in the form of a mandatory contribution by each applicant. Any amount so contributed may not be refunded. Depending upon the losses required to be reimbursed by such a fund, the director may require additional contributions to such a fund as a condition of any license application, including a license renewal application.

(f) All applications submitted under this subchapter shall be available for public inspection during business hours, provided that criminal history information and other information confidential by law shall not be available for inspection. Requests for inspection will be handled in compliance with the Texas Public Information Act, Chapter 552, Government Code. [~~Any person seeking to inspect any application shall furnish a written request to the director specifically stating the information sought to be inspected. The director may respond to such requests orally or in writing in order to arrange for the inspection of the requested documents after a reasonable time is allowed for the division to review the documents and delete confidential information.~~]

*§140.153. Qualifications for License.*

(a) Before issuing a license to any person under this subchapter, the executive director or his/her designee shall consider:

(1) the financial responsibility and security of the applicant and the business or activity in which the applicant is engaged. Consideration of this factor may include the analysis of the applicant's credit record, compliance with tax laws of other jurisdictions, status of permits and licenses, results of criminal background check, adequacy of security procedures against theft, whether the location is fixed and permanent, whether the applicant can provide appropriate security, and any other factor that may assist the director in such evaluation;

(2) the public accessibility of the applicant's place of business or activity. Consideration of this factor may include analysis of the applicant's hours of operation, proximity to major transit routes, proximity to large employers, public parking availability, and any other factor that may assist the director in such evaluation;

(3) the sufficiency of existing sales agents to serve the public convenience. Consideration of this factor may include analysis of number and proximity of other sales agents in a given market area, and/or number of "minority businesses" (as that term is defined in the Government Code, §466.107(b)) licensed in a given market area, with the possibility that additional licenses for any given market area may be denied if the area is determined to be adequately served by existing licensees;

(4) whether individuals under 18 years of age constitute a majority of the applicant's customers or as customers provide a majority of the applicant's sales volume;

(5) the volume of expected lottery sales at the applicant's place of business or activity; and

(6) any other factor that is helpful in determining whether the applicant's experience, character, and general fitness are such that the applicant's participation as a sales agent will not detract from the integrity, security, honesty, or fairness of the operation of the lottery. An example of the type of factor considered in this regard is the analysis of the type of product sold or form of service provided by the applicant.

(b) The director may grant or deny an application for a license under this subchapter based on any one or more factors listed in subsection (a) [~~of this section~~]. In addition, the director shall deny an application for a license under this subchapter upon a finding that the applicant:

(1) has been convicted of a felony, criminal fraud, gambling or a gambling-related offense, or a misdemeanor involving moral turpitude, if less than 10 years has elapsed since the termination of the sentence, parole, mandatory supervision, or probation served for the offense;

(2) is or has been a professional gambler. A "professional gambler" is a person whose profession is, or whose major source of income derives from, playing games of chance for profit;

(3) has been finally determined to be delinquent in the payment of a tax or other money collected by the comptroller, the Texas Workforce Commission, or the Texas Alcoholic Beverage Commission;

(4) is married to a person described in paragraph (1), (2), or (3) [~~of this subsection~~];

(5) has violated the Act or a rule adopted under the Act [~~by the commission in furtherance of the State Lottery Act~~];

(6) is not an individual, and an individual described in one or more of paragraphs (1) - (5) [~~of this subsection~~]:

(A) is an officer or director of the applicant;

(B) holds more than 10% of any class of issued and outstanding stock in the applicant;

(C) holds an equitable ownership interest greater than 10% in the applicant;

(D) is a creditor of the applicant to the extent of more than 10% of the applicant's outstanding debt at any time after the application is filed but before the director acts to grant or deny the license;

(E) is the owner or lessee of a business that the applicant conducts or through which the applicant will conduct a ticket sales agency;

(F) shares or will share in the profits, other than stock dividends, of the applicant or sales agent;

(G) participates in managing the affairs of the applicant; or

(H) is an employee of the applicant who is or will be involved in selling tickets or handling money from the sale of tickets;

(7) provided false or misleading information on the application form, or failed to provide information required as part of the application;

(8) failed to provide fingerprint identification for individuals for which such identification is requested in a form acceptable to the division following the division's request for such identification;

(9) has previously had a sales agent's license revoked, unless the director is satisfied the person will comply with the [~~State Lottery~~] Act and the rules under this chapter;

(10) failed to certify to the director the applicant's compliance with the federal Americans With Disabilities Act;

(11) is the subject of a license suspension or decision issued under Chapter 232, Family Code;

(12) intends to sell lottery tickets via the Internet [~~internet~~]; or

(13) intends to engage in business exclusively as a Texas Lottery ticket sales agent. For purposes of this section, an applicant "intends to engage in business exclusively as a Texas Lottery ticket sales agent" if the applicant does not sell any goods or services to the public other than Texas Lottery tickets.

(c) Without limiting the foregoing grounds for denial of a license under this subchapter, the director shall deny a license to any person whose location for the sales agency is either:

(1) a location licensed for games of bingo under the Bingo Enabling Act (Occupations Code, Chapter 2001);

(2) on land owned by the State of Texas; or a political subdivision of this state and on which is located a public primary or secondary school, an institution of higher education, or an agency of the state; or

(3) a location for which a person holds a wine and malt beverage retailer's permit, mixed beverage permit, mixed beverage permit with a retailer late hours certificate, private club registration permit, or private club registration permit with a retailer late hours certificate issued under the Alcoholic Beverage Code, Chapter 25, 28, 29, or 32, other than a location for which a person holds a wine and malt beverage retailer's permit issued under Chapter 25, Alcoholic Beverage Code, that derives less than 30 percent of the location's gross receipts from the sale or service of alcoholic beverages.

(d) Any applicant whose application is denied under this subchapter, or who is granted a license the terms of which are more restricted than those applied for, shall be notified by the director in writing of the denial or restriction and of the reasons therefore. The applicant may appeal the director's decision in accordance with rules adopted under this chapter [~~by the commission for that purpose~~].

(e) A license issued under this chapter may by its terms limit the type of games and/or method of sales authorized by the license. A determination of appropriate limitations on any license are within the director's sole discretion, provided that the director shall furnish the licensee with a written explanation of [~~or~~] the reasons for any such limitations.

(f) Based upon consideration of the factors in §140.160(g) [~~§401.160(g) of this title~~] (relating to Standard Penalty Chart), the director may determine a person or organization whose license has been revoked or surrendered, or whose application has been denied for reasons which would justify a revocation of an existing license, will not be eligible to apply for another license earlier than one year from the date of revocation, surrender, or denial.

(g) A person whose license is revoked under Government Code §466.1555(b) and §140.158 (relating to Suspension or Revocation of License) may not apply for a license before the first anniversary of the license revocation date.

*§140.157. Provisional License.*

In addition to and without limiting the director's ability to issue licenses, the director may issue provisional licenses to applicants to become sales agents. Examples of the reason a provisional license may be issued include but are not limited to a special event and the pendency [~~pendancy~~] of a background check conducted pursuant to Government Code, Chapter 466. A provisional license shall expire on the date specified on the license. A provisional license is subject to suspension or revocation in accordance with the rules adopted [~~procedures established by rules issued by the commission~~] under this title upon the [~~commission's~~] finding of any factor under §140.153(b) [~~§401.153(b) of this title~~] (relating to Qualifications for License), §140.158 [~~§401.158 of this title~~] (relating to Suspension or Revocation of License), or §140.159 [~~§401.159 of this title~~] (relating to Summary Suspension of License).

*§140.158. Suspension or Revocation of License.*

(a) The department [~~commission~~] may suspend or revoke any license issued under this subchapter if the department [~~commission~~] finds that any factor listed as grounds for denial of a license under §140.153(b) [~~§401.153(b) of this title~~] (relating to Qualifications for License) or any factor listed in subsection (b) [~~of this section~~] apply to the licensee. The department [~~commission~~] shall inform the sales agent in writing of the decision to suspend or revoke a license for any of these reasons. In addition, in the event of a license suspension under this section, the director [~~of the Lottery Operations Division~~] shall also inform the licensee of the terms under which the suspended license may be reissued.

(b) Without limiting the department's [~~commission's~~] ability to consider factors listed in §140.153(b) [~~§401.153(b) of this title~~] as grounds for suspension or revocation of a license issued under this subchapter, the department [~~commission~~] may also suspend or revoke a license for reasons including, but not limited to, any of the following:

(1) licensee engages in telecommunication or printed advertising that the director determines to have been false, deceptive or misleading;

(2) licensee conditions redemption of a lottery prize upon the purchase of any other item or service;

(3) licensee imposes a restriction upon the redemption of a lottery prize not specifically authorized by the director;

(4) licensee fails to follow instructions and procedures for the conduct of any lottery game, lottery special event or promotion;

(5) licensee and/or its employee(s) exhibit abusive [~~discourteous~~] treatment including, but not limited to, abusive language toward customers, department [~~commission~~] employees or department [~~commission~~] vendors;

(6) licensee fails to establish or maintain reasonable security precautions regarding the handling of lottery tickets and other materials;

(7) licensee fails to deface a validated ticket;

(8) licensee sells a draw game ticket for a draw that has already taken place;

(9) licensee fails to follow validation procedures, including, but not limited to, paying a claim without validating the ticket, failing to pay a valid prize after validating a customer's winning ticket, or retaining a customer's winning ticket that has not been validated;

(10) licensee violates any directive or instruction issued by the director [~~of the Lottery Operations Division~~];

(11) licensee violates any express term or condition of its license not specifically set forth in this subchapter;

(12) licensee sells a scratch ticket from a game that has closed after the date designated for the end of the game;

(13) licensee refuses to refund or properly cancel a Pick 3 or Daily 4 ticket;

(14) licensee fails to return an exchange ticket to a prize claimant claiming a prize on a multi-draw ticket if an exchange ticket is produced by the licensee's terminal;

(15) licensee fails to keep accurate and complete records of all tickets that have not been sold from confirmed, active, and settled packs;

(16) licensee fails to meet any requirement under §140.368 [~~§401.368 of this title~~] (relating to Lottery Ticket Vending Machines), if the licensee has been supplied with a self-service lottery ticket vending machine by the department [~~commission~~];

(17) licensee fails to take readily achievable measures within the allowed time period to comply with the barrier removal requirements regarding the ADA;

(18) licensee fails to prominently post license;

(19) licensee sells tickets that were assigned to another licensed location;

(20) licensee knowingly sells a ticket or pays a lottery prize to another person who is:

(A) an officer or an employee of the department [~~commission~~];

(B) an officer, member, or employee of a lottery operator;

(C) an officer, member, or employee of a contractor or subcontractor that is excluded by the terms of its contract from playing lottery games;

(D) the spouse, child, brother, sister, or parent of a person described by subparagraph (A), (B), or (C) [~~of this paragraph~~] who resides within the same household as that person;

(21) licensee endangers the security and/or integrity of the lottery games operated by the department [~~commission~~];

(22) licensee intentionally or knowingly sells a ticket at a price the licensee knows is greater than the price set by the executive director;

(23) licensee charges a fee for lottery ticket purchases using a debit card, requires an additional purchase with a debit card, and/or requires a minimum dollar amount for debit card purchases of only lottery tickets.

(24) licensee sells tickets at a location that is not licensed;

(25) licensee intentionally or knowingly sells a ticket by extending credit or lends money to enable a person to buy a ticket;

(26) licensee intentionally or knowingly sells a ticket and accepts anything for payment not specifically allowed under the State Lottery Act;

(27) licensee sells tickets over the telephone or Internet, or via mail order sales; or establishes or promotes a group purchase or pooling arrangement under which tickets are purchased on behalf of the group or pool and any prize is divided among the members of the group or pool, and the licensee intentionally or knowingly:

(A) uses any part of the funds solicited or accepted for a purpose other than purchasing tickets on behalf of the group or pool; or

(B) retains a share of any prize awarded as compensation for establishing or promoting the group purchase or pooling arrangement;

(28) licensee intentionally or knowingly alters or forges a ticket;

(29) licensee intentionally or knowingly influences or attempts to influence the selection of a winner of a lottery game;

(30) licensee intentionally or knowingly claims a lottery prize or a share of a lottery prize by means of fraud, deceit, or misrepresentation; or aids or agrees to aid another person or persons to claim a lottery prize or a share of a lottery prize by means of fraud, deceit, or misrepresentation;

(31) licensee intentionally or knowingly tampers with, damages, defaces, or renders inoperable any vending machine, electronic computer terminal, or other mechanical device used in a lottery game, or fails to exercise due care in the treatment of department [~~commission~~] property;

(32) licensee:

(A) induces another person to assign or transfer a right to claim a prize;

(B) initiates or accepts an offer to sell the right to claim a prize;

(C) initiates or accepts an offer of compensation from another person to claim a lottery prize; or

(D) purchases, for anything of value, a lottery ticket from a person who is not a licensed lottery retailer;

(33) licensee intentionally or knowingly makes a statement or entry that the person knows to be false or misleading on a required report;

(34) licensee fails to maintain or make an entry the licensee knows is required to be maintained or made for a required report;

(35) licensee knowingly refuses to permit the director [~~of the Lottery Operations Division, the executive director~~], the employees of the department [~~commission, the lottery operator~~], the employees

or agents of the lottery operator, or the state auditor to examine the agent's books, records, papers or other objects, or refuses to answer any question authorized under the State Lottery Act;

(36) licensee intentionally or knowingly makes a material and false or incorrect, or deceptive statement, written or oral, to a person conducting an investigation under the State Lottery Act or a department [~~commission~~] rule;

(37) licensee commits an offense of conspiracy as defined in the State Lottery Act;

(38) licensee sells or offers for sale any interest in a lottery of another state or state government or an Indian tribe or tribal government, including an interest in an actual lottery ticket, receipt, contingent promise to pay, order to purchase, or other record of the interest;

(39) licensee sells to one individual more than 100 lottery tickets in a single transaction, whether draw game tickets, scratch tickets, or any combination;

(40) [~~(39)~~] licensee, with criminal negligence, [~~licensee intentionally or knowingly~~] sells or offers to sell a ticket to a person that the licensee knows is younger than 18 years (revocation only);

(41) [~~(40)~~] licensee incurs four (4) notices of nonsufficient fund transfers or non-transfer of funds within a 12-month period (revocation only);

(42) [~~(41)~~] licensee fails to pay the full amount of money owed to the department [~~commission~~] after a nonsufficient funds transfer or non-transfer of funds to the department's [~~commission's~~] account (revocation only);

(43) [~~(42)~~] licensee knowingly sells tickets to, works with, or otherwise assists a lottery ticket courier service (revocation only); [~~or~~]

(44) licensee knowingly sells or allows the sale of tickets for a lottery game involving a drawing to one or more persons attempting to purchase all or substantially all possible winning tickets for the drawing (revocation only);

(45) licensee fails to verify the age of each ticket purchaser at the point of sale (revocation only);

(46) licensee by telephone, Internet application, or mobile Internet application facilitates the purchase or orders the purchase of a ticket for a lottery game (revocation only);

(47) licensee by telephone, Internet application, or mobile Internet application, for compensation, accepts an order for a ticket for a lottery game from a player, sells a ticket for a lottery game to a player, or arranges to purchase a ticket on behalf of a person playing a lottery game; or arranges for another person to purchase a ticket on behalf of a person playing a lottery game (revocation only);

(48) licensee sells tickets to a person who is not physically present at the retailer's location, a person outside the retailer's licensed location, or to a person outside the normal business hours of the retailer's licensed location (revocation only); or

(49) [~~(43)~~] licensee has violated a provision of the State Lottery Act[~~, Government Code, Chapter 466,~~] or a department [~~commission~~] rule adopted under the [~~State Lottery~~] Act.

(c) For purposes of this chapter, the term "lottery ticket courier service" means a service that, by any remote means, such as telephone, Internet application, or mobile application, accepts and fulfills, for a fee or compensation, orders to purchase lottery tickets on behalf of another person not present to effect an in-person sale.

(d) For purposes of this chapter, the term "ticket" means a single scratch ticket, or a single draw game ticket which may include multiple plays per ticket.

*§140.160. Standard Penalty Chart.*

(a) The department [~~commission~~], through the executive director or his/her designee [~~of the Lottery Operations Division~~], may offer settlements to persons charged with violating the provisions of the State Lottery Act or rules of the commission. Settlement of those cases, unless otherwise provided for elsewhere in this rule, shall be in compliance with the following standard penalty chart. A settlement will be in the form of an Agreement and Consent Order [~~of the commission~~].

(b) A repeat violation by a licensee justifies the penalty for a second or third violation if it occurs within 12 months of the first violation. Violations need not be the same or similar in nature to previous violations to be considered repeat violations.

(c) A penalty for an alleged repeat violation shall not be assessed unless the alleged violation occurs after the licensee has been notified, in writing, of the first alleged violation. Notwithstanding the preceding sentence, if an alleged violation is discovered during an undercover operation, then no notice of any prior alleged violations may be necessary to assess a penalty for a repeat violation. The requirement that written notice be given to a licensee shall not be interpreted to require that a notice of hearing for the violation be delivered to the licensee.

(d) The list of violations in the standard penalty chart is not an exclusive list of violations of the Act [~~commission~~] or rules of the commission. The executive director or commission is authorized to assess penalties for a [~~any~~] violation of any of the foregoing statutes or rules for which a penalty is not provided on the chart. Any penalty assessed for a violation not provided for on the standard penalty chart shall be approved by the director [~~of the Lottery Operations Division or his/her designee~~] prior to its assessment.

(e) Any person responsible for assessing a penalty for a violation may, unless otherwise required by statute, deviate from the standard penalty chart if mitigating circumstances are involved and consideration will be given to all the factors listed in subsection (g) [~~of this section~~]. If a recommendation deviating from the standard penalty chart is made, it must be made in writing and [~~be~~] filed with the case report. Final approval shall be made by the director [~~of the Lottery Operations Division or his/her designee~~].

(f) Unless otherwise provided by statute, the [~~The~~] standard penalty chart does not bind an administrative law judge or the commission as to penalties for any violation determined to have occurred by the facts presented in an administrative hearing and the record of that proceeding shall be the determining factor as to the sufficiency of the penalty assessed.

(g) Based upon consideration of the following factors, the executive director or commission may, unless otherwise required by statute, impose penalties other than the penalties recommended in §140.158 [~~§401.158 of this title~~] (relating to Suspension or Revocation of License) and/or this section:

(1) Severity of the offense;

(2) Danger to the public;

(3) Number of repetition of offenses;

(4) Number of complaints previously found justified against the licensee;

(5) Length of time the licensee has held a license;

(6) Actual damage, physical or otherwise, caused by the violations;

(7) Deterrent effect of the penalty imposed;

(8) Attempts by licensee to correct or stop violations or refusal by licensee to correct or stop violations;

(9) Penalties imposed for related offenses;

(10) Current employment status of any employee(s) that committed violation(s); or

(11) Any other mitigating or aggravating circumstances.

(h) Standard Penalty Chart.
Figure: 16 TAC §140.160(h)
[~~Figure: 16 TAC §401.160(h)~~]

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

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Deanne Rienstra
General Counsel
Texas Department of Licensing and Regulation
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For further information, please call: (512) 344-5392

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## SUBCHAPTER E. RETAILER RULES

### 16 TAC §§140.355, 140.368, 140.369

The proposed rules are proposed under Texas Government Code, Chapter 466, and Texas Occupations Code, Chapter 51, 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 proposed rules are those set forth in Texas Government Code, Chapter 466, and Texas Occupations Code, Chapter 51. No other statutes, articles, or codes are affected by the proposed rules.

The legislation that enacted the statutory authority under which the proposed rules are to be adopted are Senate Bill (SB) 1346 and SB 3070, 89th Legislature, Regular Session (2025).

*§140.355. Restricted Sales.*

(a) Retailers shall not sell lottery tickets via the Internet or by mail, phone, fax, or other similar method of communications. Retailers shall not sell a lottery ticket or any other document evidencing a right, privilege, or share in a lottery ticket from another jurisdiction by any means.

(b) Retailers shall not knowingly sell tickets to, work with, or otherwise assist a lottery ticket courier service.

(c) Retailers shall not sell tickets to persons under the age of 18. Any ticket purchased by or sold to an individual under the age of 18 years shall be void and the prize otherwise payable on the ticket is treated as an unclaimed prize under Texas Government Code §466.408.

(d) Each retailer shall electronically access the electronically readable information on each ticket purchaser's driver's license, commercial driver's license, or personal identification certificate to verify the ticket purchaser is 18 years of age or older. If the retailer cannot access the electronically readable information, the retailer may visually inspect the ticket purchaser's driver's license, commercial driver's license, or personal identification certificate to verify the ticket purchaser is 18 years of age or older.

(e) [~~(d)~~] Retailers shall not sell a ticket or pay a lottery prize to another person that the retailer knows is:

(1) an officer or an employee of the department [~~commission~~];

(2) an officer, member, or employee of a lottery operator;

(3) an officer, member, or employee of a contractor or subcontractor that is excluded by the terms of its contract from playing lottery games;

(4) the spouse, child, brother, sister, or parent of a person described by paragraph (1), (2), or (3) [~~of this subsection~~] who resides within the same household as that person.

(f) [~~(e)~~] Retailers shall not sell tickets from a game after the game's closing date.

(g) Retailers shall not sell to one individual more than 100 lottery tickets in a single transaction, whether draw game tickets, scratch tickets, or any combination.

(h) Retailers shall not sell tickets to a person who is not physically present at the retailer's location, a person outside the retailer's licensed location, or to a person outside the normal business hours of the retailer's licensed location.

*§140.368. Lottery Ticket Vending Machines.*

(a) No sales agent may distribute or sell lottery game tickets from a lottery ticket vending machine, except those lottery ticket vending machines supplied and placed by the department [~~commission~~]. For purposes of this section lottery ticket vending machine is defined as a ticket dispensing machine that dispenses lottery game tickets without the assistance of a sales agent's personnel.

(b) Lottery ticket vending machines may be placed by the department [~~commission~~] in a sales agent's location based upon criteria established by the executive director or his/her designee. The criteria may include consideration of the location of the sales agent, the type of the sales agent's location, e.g., grocery store, the size of the sales agent's location, and minimum sales criteria that shall be provided to the sales agents prior to implementation of such criteria.

(c) A lottery sales agent must maintain the minimum sales criteria established by the executive director in order to obtain and retain a lottery ticket vending machine. A sales agent who does not maintain minimum sales in accordance with such sales criteria may be placed in a sales review period unless good cause exists as determined by the executive director. After the sales agent's sales review period has expired, the sales agent's sale of lottery game tickets shall be reviewed. If the sales agent has not maintained the minimum sales in accordance with the minimum ticket sales criteria during such sales review period, the department [~~commission~~] or department's [~~commission's~~] designated representative may remove the lottery ticket vending machine.

(d) The minimum sales criteria established by the executive director shall be provided to the sales agents at least 30 days prior to imposition of such minimum sales criteria.

(e) Lottery ticket vending machines may only be placed within the sales agent's location in a site approved by the department [~~commission~~].

(f) A lottery sales agent may redeem any lottery prize of less than $600.

(g) Every lottery sales agent location equipped with a lottery ticket vending machine(s) will be provided a remote shut off device to allow for the control of sales transactions.

(h) A lottery sales agent shall keep the lottery ticket vending machine stocked with printer supplies and tickets.

(i) A lottery sales agent shall provide designated sales reports to the department [~~commission~~] or the department's [~~commission's~~] designated representative(s).

(j) A lottery sales agent shall undergo required training relating to the use and maintenance of lottery ticket vending machines prior to ticket sales from the lottery ticket vending machine.

(k) A lottery sales agent shall allow department [~~commission~~] designated service technicians access to the lottery ticket vending machine to allow service and repair of the lottery ticket vending machine.

(l) A sales agent is expected to make every reasonable effort to provide player resolution at the retail location if a player's lottery purchase, or attempted purchase, from a lottery vending machine results in a need to refund the player's money. The sales agent is to contact the Retailer Services [~~Lottery Operations Division~~] for service to resolve a mechanical error and the department [~~commission~~] to request any refund due to player reimbursement. Resolution due to player errors or requests for ticket cancellations must follow the specific lottery game rule for the game played.

*§140.369. Limitations on Certain Lottery Equipment.*

(a) A sales agent's licensed location may not be supplied with more than five traditional lottery terminals unless approved by the director, and the number of terminals must not be disproportionate to the amount of legitimate retail business conducted at the location.

(b) A sales agent's licensed location may not be supplied with more than five lottery vending machines unless approved by the director, and the number of machines must not be disproportionate to the amount of legitimate retail business conducted at the location.

(c) Promotional events conducted by the Texas Lottery are temporarily exempt from the five-terminal limit for the duration of the event, and the retailer may be supplied with additional equipment as approved by the director to support promotional activities.

(d) For the purposes of this section, a "traditional lottery terminal" refers to a clerk-operated device solely dedicated to processing lottery transactions, printing tickets, and validating winning tickets.

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

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Deanne Rienstra
General Counsel
Texas Department of Licensing and Regulation
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# TITLE 19. EDUCATION

## PART 1. TEXAS HIGHER EDUCATION COORDINATING BOARD

## CHAPTER 1. AGENCY ADMINISTRATION

## SUBCHAPTER A. GENERAL PROVISIONS

### 19 TAC §1.18

The Texas Higher Education Coordinating Board (Coordinating Board) proposes the repeal of Texas Administrative Code, Title 19, Part 1, Chapter 1, Subchapter A, §1.18, Operation of Education Resource Centers. Specifically, this repeal removes the Educational Resource Center rule so that it can be replaced with an updated subchapter.

Texas Education Code, §61.027, provides the Coordinating Board with general rule making authority. Texas Education Code, §1.005 and §1.006, govern Education Resource Centers.

Rule 1.18, Operation of Education Resource Centers, repeals a rule that will be replaced with an updated subchapter.

Melissa Humphries, Assistant Commissioner for Data Management and Research, has determined that for each of the first five years the section is in effect, there would be no fiscal implications for state or local governments as a result of enforcing or administering the rule. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rule. There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rule.

There is no impact on small businesses, micro businesses, and rural communities. There is no anticipated impact on local employment.

Melissa Humphries, Assistant Commissioner for Data Management and Research, has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be to repeal the Educational Resource Center rule that will be replaced with an updated subchapter. There are no anticipated economic costs to persons who are required to comply with the section as proposed.

Government Growth Impact Statement

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

(2) implementation of the rule will not require the creation or elimination of employee positions;

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

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

(5) the rule will not create a new rule;

(6) the rule will not limit an existing rule;

(7) the rule will not change the number of individuals subject to the rule; and

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

Comments on the proposed rule or information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research or analysis, may be submitted to Melissa Humphries, Assistant Commissioner for Data Management and Research, P.O. Box 12788, Austin, Texas 78711-2788, or via

email at RulesComments@highered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The repeal is proposed under Texas Education Code, Section 61.027, which provides the Coordinating Board with the authority to make rules and Texas Education Code, Sections 1.005and 1.006, which govern Education Resource Centers and the Advisory Board.

The proposed repeal affects Texas Education Code, Sections 1.005 and 1.006.

*§1.18. Operation of Education Resource Centers.*

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

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Douglas Brock
General Counsel
Texas Higher Education Coordinating Board
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For further information, please call: (512) 427-6546

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## SUBCHAPTER H. CERTIFICATION ADVISORY COUNCIL

### 19 TAC §§1.136, 1.139 - 1.141

The Texas Higher Education Coordinating Board (Coordinating Board) proposes amendments to Texas Administrative Code, Title 19, Part 1, Chapter 1, Subchapter H, §1.136 and §§1.139 - 1.141, concerning Certification Advisory Council. Specifically, these amendments will align the rules with the new rules on private postsecondary institutions in the new proposed Chapter 7.

Texas Education Code, §61.314, authorizes these amendments.

Rule 1.136, Definitions, is amended to align the definitions with the definitions in the new proposed Chapter 7.

Rule 1.139, Meetings, is amended to remove a reference to a Board Committee that no longer meets.

Rule 1.140, Tasks Assigned to the Council, is amended to align with the terminology used in the new Proposed Chapter 7.

Rule 1.141, Report to the Board; Evaluation of Council Costs and Effectiveness, is amended to remove an unnecessary requirement.

Daniel Pérez, Associate Commissioner for Academic and Workforce Initiatives, has determined that for each of the first five years the sections are in effect there would be no fiscal implications for state or local governments as a result of enforcing or administering the rules. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rules. There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rules.

There is no impact on small businesses, micro businesses, and rural communities. There is no anticipated impact on local employment.

Daniel Pérez, Associate Commissioner for Academic and Workforce Initiatives, has also determined that for each year of the first five years the sections are in effect, the public benefit anticipated as a result of administering the sections will be to align the Certification Advisory Council rules with the new rules on private postsecondary institutions in the new proposed Chapter 7. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

Government Growth Impact Statement

(1) the rules will not create or eliminate a government program;

(2) implementation of the rules will not require the creation or elimination of employee positions;

(3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;

(4) the rules will not require an increase or decrease in fees paid to the agency;

(5) the rules will not create a new rule;

(6) the rules will not limit an existing rule;

(7) the rules will not change the number of individuals subject to the rule; and

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

Comments on the proposed rules or information related to the cost, benefit, or effect of the proposed rules, including any applicable data, research or analysis, may be submitted to, Daniel Pérez, Associate Commissioner for Academic and Workforce Initiatives, P.O. Box 12788, Austin, Texas 78711-2788, or via email at RulesComments@highered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The amendment is proposed under Texas Education Code, Section 61.314.

The proposed amendment affects Texas Education Code, Section 61.314.

*§1.136. Definitions.*

The following words and terms, when used in this subchapter, shall have the following meanings:

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

(2) Commissioner--The Commissioner of Higher Education. [~~, the Chief Executive Officer of the Board.~~]

(3) Coordinating Board--The agency known as the Texas Higher Education Coordinating Board and its staff.

(4) [~~(3)~~] Certificate of Authority--Statutory term under Texas Education Code, §61.304, used for temporary authorization granted by the Board to a non-exempt institution which does not have Coordinating Board-recognized institutional accreditation. This chapter refers to a Certificate of Authority as a Provisional Certificate to Operate. [~~The Board's approval of postsecondary institutions (other than exempt institutions), with operations in the State of Texas, to confer degrees or courses applicable to degrees, or to solicit students for enrollment in institutions that confer degrees or courses applicable to degrees.~~]

[~~(4) Exempt Institution--An institution that is accredited by an agency recognized by the Board under §7.6 of this title (relating to Recognition of Accrediting Agencies), or is defined as a "private~~

or independent institution of higher education" under Texas Education Code, §61.003(15), or is a career school or college that applies for and is declared exempt under this chapter, by the Texas Workforce Commission as described in Texas Education Code, §61.303(a), or Texas Education Code, Chapter 132, respectively. Exempt institutions must comply with certain Board rules.]

[(5) Postsecondary Educational Institution--An educational institution which:]

[(A) is not a public community college, public technical college, public senior college or university, medical or dental unit or other agency as defined in Texas Education Code, §61.003;]

[(B) is incorporated under the laws of this state, or maintains a place of business in this state, or has an agent or representative present in this state, or solicits business in this state; and]

[(C) furnishes or offers to furnish courses of instruction in person, by electronic media, by correspondence, or by some means or all leading to a degree; provides or offers to provide credits alleged to be applicable to a degree; or represents that credits earned or granted are collegiate in nature, including describing them as "college-level," or at the level of any protected academic term.]

[(6) Private Postsecondary Educational Institution--An institution which:]

[(A) is not an institution of higher education as defined by Texas Education Code, §61.003;]

[(B) is incorporated under the laws of this state, maintains a place of business in this state, has an agent or representative presence in this state, or solicits business in this state; and]

[(C) furnishes or offers to furnish courses of instruction in person, by electronic media, or by correspondence leading to a degree or providing credits alleged to be applied to a degree.]

(5) [(7)] Recognized Accrediting Agency--Any accrediting agency the standards of accreditation or membership for which have been found by the Board to be sufficiently comprehensive and rigorous to qualify its institutional members for an exemption from the operation of Chapter 7 of this title (relating to Degree Granting Colleges and Universities Other Than Texas Public Institutions).

(6) [(8)] Site visit report--The report produced by the site review team in accordance with the procedures outlined in Chapter 7. [, Subchapter A, §7.8(3)(I) of this title (relating to Institutions Not Accredited by a Board Recognized Accreditor).]

*§1.139. Meetings.*

The council shall meet on a quarterly basis scheduled no later than the first day of the month prior to the month that the Board [Committee on Academic and Workforce Success] meets. A quarterly meeting may be cancelled if no actions are pending requiring advice from the Certification Advisory Council. A quarterly meeting may be rescheduled if a quorum of members cannot be met. Special meetings may be called as deemed appropriate by the presiding officer. Meetings shall be open to the public and broadcast via the web, unless prevented by technical difficulties, and minutes shall be made available to the public after they have been prepared by the Board staff and reviewed by members of the council.

*§1.140. Tasks Assigned to the Council.*

Tasks assigned to the council may include:

(1) Review the site visit report and an institution's response for each Provisional Certificate to Operate [Certificate of Authority] application;

(2) Make recommendations regarding the Provisional Certificate to Operate [Certificate of Authority] application to the Board;

(3) Review requests by an accrediting agency for recognition by the Board; and

(4) Perform other duties related to certification that the Board requests of the council.

*§1.141. Report to the Board[; Evaluation of Council Costs and Effectiveness].*

The council presiding officer shall timely report any recommendations to the Board [but] on no less than an annual basis. [The council shall also report council activities to the Board to allow the Board to properly evaluate the council's work, usefulness, and the costs related to the council's existence. The Board shall report its evaluation to the Legislative Budget Board in its biennial Legislative Appropriations Request.]

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

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Douglas Brock
General Counsel
Texas Higher Education Coordinating Board
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For further information, please call: (512) 427-6299

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## SUBCHAPTER Y. EDUCATION RESEARCH CENTERS

### 19 TAC §§1.280 - 1.287

The Texas Higher Education Coordinating Board (Coordinating Board) proposes new rules in Texas Administrative Code, Title 19, Part 1, Chapter 1, Subchapter Y, §§1.280 - 1.287, concerning Education Research Centers. Specifically, these new sections will clarify the standards for approval of projects by Education Research Centers (ERCs) and provide updated operational rules for the ERCs.

Texas Education Code, §1.005 and §1.006, govern ERCs and the ERC Advisory Board.

Texas Education Code §61.027, provides the Coordinating Board with general rule making authority.

Rule 1.280, Definitions, provides definitions of terms used in the subchapter.

Rule 1.281, Establishment of ERCs, provides the framework for establishing Education Research Centers.

Rule 1.282, Responsibility of Parties, outlines the respective roles of the Coordinating Board and sponsoring Institutions of Higher Education.

Rule 1.283, Privacy and Data Security, outlines required data security standards.

Rule 1.284, Suspension and Revocation, provides a process for revoking or suspending data access.

Rule 1.285, Advisory Board, outlines the role of the ERC Advisory Board.

Rule 1.286, Operation of an ERC, identifies the structure, role, and responsibility of an ERC.

Rule 1.287, Sanctions and Termination, provides a process for handling a situation where an ERC is not in compliance with its statutory responsibility or these rules.

Melissa Humphries, Assistant Commissioner for Data Management and Research, has determined that for each of the first five years the sections are in effect there would be no fiscal implications for state or local governments as a result of enforcing or administering the rules. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rules. There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rules.

There is no impact on small businesses, micro businesses, and rural communities. There is no anticipated impact on local employment.

Melissa Humphries, Assistant Commissioner for Data Management and Research, has also determined that for each year of the first five years the sections are in effect, the public benefit anticipated as a result of administering the sections will be to clarify the standards for approval of projects ERCs and provide updated operational rules for the ERCs. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

Government Growth Impact Statement

(1) the rules will not create or eliminate a government program;

(2) implementation of the rules will not require the creation or elimination of employee positions;

(3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;

(4) the rules will not require an increase or decrease in fees paid to the agency;

(5) the rules will not create a new rule;

(6) the rules will not limit an existing rule;

(7) the rules will not change the number of individuals subject to the rule; and

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

Comments on the proposed rules or information related to the cost, benefit, or effect of the proposed rules, including any applicable data, research or analysis, may be submitted to Melissa Humphries, Assistant Commissioner for Data Management and Research, P.O. Box 12788, Austin, Texas 78711-2788, or via email at RulesComments@highered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The new sections are proposed under Texas Education Code, Section 61.027, which provides the Coordinating Board with the authority to adopt rules.

The proposed new sections affect Texas Education Code, Sections 1.005 and 1.006.

*§1.280. Definitions.*

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

(1) "Board" refers to the governing Board of the agency known as the Texas Higher Education Coordinating Board.

(2) "Commissioner" refers to the Commissioner of Higher Education.

(3) "Coordinating Board" refers to the agency known as the Texas Higher Education Coordinating Board and its staff.

(4) ERC means an Education Research Center.

(5) Advisory Board means the ERC Advisory Board.

(6) "FERPA" means the Family Educational Rights and Privacy Act, 20 U.S.C. §1232g, including regulations and informal written guidance issued by the United States Department of Education, or successor federal agency, and any amendments or supplementation thereof.

(7) "Cooperating Agencies" refers to the Texas Education Agency (TEA), the Texas Higher Education Coordinating Board (CB), and the Texas Workforce Commission (TWC).

(8) "P-20/Workforce Data Repository" refers to the collection of data maintained by an education research center, including data provided by each Cooperating Agency.

(9) "Texas-based institution or organization" refers to an institution of higher education, government agency, or other organization with a physical presence in the state of Texas.

(10) "Qualified researcher" means an individual who:

(A) holds a graduate degree, is enrolled in a graduate-level program, or has equivalent professional research experience of at least 10 years and a bachelor's degree;

(B) is affiliated with an accredited institution of higher education, government agency, or other recognized public or private research organization, and demonstrates the ability to conduct research relevant to education or workforce outcomes in Texas;

(C) is approved to access data solely for an authorized research project under the ERC; and

(D) agrees to comply with all applicable federal and state laws, including the Family Educational Rights and Privacy Act (FERPA), and all ERC data security requirements.

(11) "Benefit to the State of Texas" means a demonstrated contribution to the improvement, evaluation, or advancement of education in this state. A proposed study or evaluation provides a benefit to the State of Texas if it:

(A) addresses a policy, program, practice, population, pathway, institution, or system related to a TEA, TWC, or CB stated priority;

(B) is designed to produce findings, evidence, tools, or actionable insights that may inform decision-making, practice, policy, or program improvement in Texas education systems;

(C) requires access to confidential administrative data to achieve the stated research purpose and limits use of such data to the approved purpose;

(D) is not conducted for commercial, marketing, or private financial gain;

(E) complies with applicable state and federal law, agency rules, data governance requirements, and approved ERC policies and procedures; and

(F) requires the qualified researcher to submit all required project closeout materials, including a policy brief in a form and manner prescribed by the Coordinating Board, within 30 days after the conclusion of the approved project period. The policy brief must summarize the study's purpose, data used, methodology, key findings, limitations, and implications for Texas education policy, practice, programs, or systems. If the qualified researcher does not submit all required closeout materials within 30 days after the conclusion of the approved project period, the ERC shall suspend access to confidential administrative data for the approved project until the requirements are completed, unless an extension is approved by the Coordinating Board.

(12) "Commissioner-directed project" means a research initiative designated by the Commissioner of Education, the Commissioner of Higher Education, or the Chairman of the Texas Workforce Commission to conduct a study or evaluation using data available through an education research center to address an identified agency need or priority and demonstrates a clear and substantive benefit to the state of Texas.

(13) "Confidential Information" as applied to data in the P-20/Workforce Data Repository provided to an ERC includes all individual-level data, including any data cells small enough to allow identification of an individual. All data cells containing between one and four individuals, inclusive, shall be masked to stop re-identification.

(14) "Institution of Higher Education" means an educational institution as defined in Texas Education Code, §61.003.

*§1.281. Establishment of ERCs.*

(a) ERCs shall be established by the Coordinating Board.

(b) An ERC may only be established at a sponsoring institution of higher education but may be awarded to a consortium of such institutions.

(c) An ERC must be physically located within Texas and must retain all data at that location except for secure off-site data back-up in accordance with written procedures approved by the Advisory Board. Individual level data from the ERC P-20/Workforce Data Repository may not be provided to a qualified researcher except in the following ways:

(1) Individual-level data may be provided to a qualified researcher at an ERC or the Coordinating Board or an institution of higher education located in Texas that is an acknowledged consortium member of the ERC;

(2) Individual-level data may be accessed by approved qualified researchers via secure, restricted, VPN remote access provided all other provisions of this chapter are met and established policies are followed; or

(3) Remote access may be limited based on system capacity, data security requirements, and available resources. An ERC may establish reasonable limits on the number of remote access projects.

*§1.282. Responsibility of Parties.*

(a) The Coordinating Board is responsible for general oversight and technical assistance of ERCs, except as otherwise provided in this chapter. Policy decisions shall be approved by the Coordinating Board.

(b) Sponsoring institutions of higher education are responsible for all equipment, salaries and other operating costs of an ERC, including documented staff time and equipment at TEA and the Coordinating Board necessary to prepare and maintain data for the ERCs, as well as reasonable reimbursable expenses of the Advisory Board.

(1) Costs will include actual documented expenses for staff at TEA and Coordinating Board along with associated data storage costs as set by the Department of Information Resources for the data center consolidation rates unless otherwise agreed to by the Coordinating Board and the ERCs.

(2) ERCs may establish and assess reasonable charges for data access and related services, subject to review and oversight by the Coordinating Board. Such charges must be applied in a consistent manner and reflect the level of effort and resources required to support the project, including factors such as project scope, complexity, and administrative or technical requirements.

*§1.283. Privacy and Data Security.*

(a) Qualified researchers and ERCs must comply with FERPA, and the implementing federal regulations, 34 C.F.R. Part 99. Qualified researchers and ERCs must protect student data with reasonable data security procedures for any confidential student information they receive or access that could make a student's identity traceable or identifiable.

(b) ERCs may provide qualified researchers access to shared data only through secure methods subject to the qualified researcher executing an agreement to abide and comply with FERPA.

(c) Each ERC shall adopt rules or policies approved by the Advisory Board to protect the confidentiality of information used or stored at the ERC in accordance with applicable state and federal law. These rules or policies shall establish procedures to ensure that confidential information is not duplicated or removed from an ERC or from a remote access interface in an unauthorized manner.

*§1.284. Suspension and Revocation.*

(a) The Coordinating Board, in coordination with cooperating agencies, may suspend, limit, or revoke a qualified researcher's access to ERC data at any time for failure to comply with applicable law, Board rules, data use agreements, or ERC policies and procedures. Suspension or revocation may result in termination of the project and denial of future access to ERC data.

(b) Data access privileges shall be suspended or revoked for all qualified researchers associated with a project if the required policy brief is not submitted within 30 days of the conclusion of the active project period. Such suspension shall apply to all current access and future requests across any ERC project, and privileges shall remain suspended until the outstanding policy brief is submitted to and accepted by the Coordinating Board.

*§1.285. Advisory Board.*

(a) The Commissioner shall create and maintain an advisory board to review and approve, as it deems appropriate, research involving access to confidential information and to adopt policies and rules governing the protection of such information in ERC operations. The Advisory Board is considered to be a governmental body for purposes of Chapters 551 and 552 of the Texas Government Code.

(b) Membership of the Advisory Board shall include, at a minimum:

(1) The Commissioner or designee, as Chair;

(2) A representative of TEA, designated by the Commissioner of Education;

(3) A representative of the Coordinating Board, designated by the Commissioner;

(4) A representative of the TWC, designated by the TWC;

(5) The Director of each ERC, who shall formally appoint a designee to serve as an alternate representative and ensure continuous representation on the Advisory Board;

(6) A representative of preschool, elementary, or secondary education, designated by the Commissioner of Education; and

(7) A representative of higher education, designated by the Commissioner.

(c) The Advisory Board will review each study or evaluation proposal. A study or evaluation proposal must be approved in advance by majority vote of the Advisory Board before it can be conducted at an ERC. The Advisory Board's review of a proposal must include the following factors:

(1) The benefit to the state of Texas;

(2) The quality of the research design and methodology;

(3) The extent to which the data required to complete the proposed study or evaluation is not readily available from other sources;

(4) Whether the requested data are necessary to achieve the stated research purpose;

(5) Whether the proposal project period is appropriate to the scope and purpose of the research; and

(6) Whether the proposal involves the development of dashboards, applications, or other data tools, and if so, whether the intended use is clearly described and consistent with this chapter.

(d) The Advisory Board will decide if a submitted proposal falls under the "studies" exception or the "audit/evaluation" exception described in FERPA and its implementing regulations. Should a proposed study or evaluation not be permitted by FERPA or its implementing regulations, the proposal will be denied.

(e) The sponsoring ERC will enter into a written agreement with each qualified researcher mandating the qualified researcher's compliance with FERPA.

(f) The Advisory Board shall meet at the call of the Chair at least quarterly and such meetings will be open to the public.

(g) Meetings may be conducted by electronic means, including telephonic, video conference call, Internet, or any combination of those means.

(h) The Advisory Board may create committees and subcommittees as it deems necessary or appropriate.

*§1.286. Operation of an ERC.*

(a) An ERC may operate only under written authorization by the Coordinating Board. Status as an ERC may not be assigned, delegated or transferred to any other entity.

(b) An ERC shall be led by a managing director who is an employee of the sponsoring institution of higher education. The managing director shall report directly to the chief operating officer of the sponsoring institution of higher education unless a different reporting structure is approved by the Coordinating Board.

(c) All research at an ERC involving access to any data, including confidential information, shall be conducted with the approval of the Advisory Board. All remote access research at an ERC involving access to confidential information shall be conducted with the approval of the Advisory Board.

(d) All research conducted at an ERC shall be limited to a defined project period appropriate to the scope and purpose of the approved study or evaluation. Standard project timelines and evaluation intervals shall be governed by criteria specified within the Advisory Board Operating Procedures. The Advisory Board shall review the proposed project period and any requests for extension to ensure alignment with the research purpose, data necessity, and benefit to the state of Texas. The Advisory Board shall require qualified researchers to file a new project application if an extension request will cause the project to extend past ten years from the date of original approval, to justify the continued benefit to the state of Texas and continued use of student data beyond ten years, unless good cause is shown.

(e) ERCs shall monitor the status of approved research projects and maintain records of project activity. Projects that cannot be completed as approved, involve significant changes in scope, or raise data security or compliance concerns may be presented to the Advisory Board for notification or further action, as appropriate.

(f) Confidential information provided to an ERC shall be protected by procedures to ensure that any unique identifying number is not traceable to any individual. Such procedures must be maintained as confidential by participating agencies and may not be shared with an ERC or used for any other purpose. Under no circumstances may Social Security Numbers, names, birthdates, or addresses be accessed for the purpose of research at an ERC.

(g) ERCs shall adopt written procedures for research conducted using confidential information, subject to FERPA and approval by the Advisory Board. An ERC may not access confidential information until all such procedures are approved. Such procedures shall include:

(1) Measures to ensure against unauthorized disclosure of confidential information;

(2) Independent review of all research products/results by a designated ERC staff person not involved in that specific project to ensure against unauthorized disclosure of confidential information in accordance with guidelines adopted under FERPA;

(3) Measures to ensure that confidential information is not copied or removed from the ERC;

(4) Annual certification of full compliance with all requirements of state and federal laws and regulations regarding the use of confidential information for research purposes by the internal auditor of each participating institution of higher education;

(5) Before final approval of a research proposal by the Advisory Board, the qualified researcher must certify that the research proposal complies with their home institution's institutional review board (IRB) or similar research review board with oversight over research design, including any applicable requirements for research involving human subjects. The ERC shall maintain evidence of approval from the IRB or justification for exclusion from the IRB process before a qualified researcher has access to any data;

(6) Criteria for allocating research access capacity for qualified researchers not affiliated with the sponsoring institutions of higher education, including consideration of the project's benefit to the state of Texas, alignment with the mission of the ERC, involvement of Texas-based institutions or organizations, availability of resources, and the level of effort required to support the project; and

(7) Requirements governing remote access, including compliance with applicable data security standards and restrictions necessary to protect confidential information.

(h) All final research reports or analysis produced at an ERC shall:

(1) Be made available upon request to the cooperating agencies;

(2) A single copy shall be made available to the cooperating agencies of any copywritten publications at no cost to the cooperating agencies, including a final manuscript PDF; institutionally produced or non-copyright publications shall be available for public distribution, copying or reproduction at no cost to the cooperating agencies; and

(3) Contain a disclaimer in a form acceptable to the cooperating agencies stating that the conclusions of the research do not necessarily reflect the opinion or official position of those entities or of the state of Texas;

(i) An ERC shall comply with the requirements of the Texas Public Information Act, including requirements relating to data manipulation. Charges for processing Public Information Act requests shall be based on guidelines developed by the Texas Attorney General's Office.

(j) A sponsoring institution of higher education shall cooperate fully with all audit requests made by the Coordinating Board or the Advisory Board. Each ERC shall annually request and undergo a security audit performed by the Texas Department of Information Resources, or a contractor approved by that department, which shall include a penetration test of computer equipment and access, and provide the results thereof to the Coordinating Board.

(k) Research projects that require access to data not then included in the database maintained by the Coordinating Board for research will be provided by the cooperating agencies if available. An ERC will be charged the cost to process or manipulate such data.

*§1.287. Sanctions and Termination.*

(a) Upon a determination that confidential information has been released or has been copied to another location, or that appropriate security measures are not in place to protect confidential information, the Coordinating Board may, in addition to other remedies set forth in this section, require an ERC to obtain appropriate services or equipment or to remove confidential information from such other location to remedy a security deficit. Such services or equipment shall be purchased by the ERC from vendors subject to approval of the Coordinating Board.

(b) The ERC under review shall be required to pay all reasonable costs to the Coordinating Board for time necessary to re-audit and ensure appropriate security measures are in place after a possible breach occurs.

(c) An ERC may be terminated by the Coordinating Board for failure to meet the requirements of state or federal law, of this subchapter, or of the terms of a contract establishing the ERC. An ERC shall be entitled to an informal review of a determination to terminate its status by a designee of the Commissioner prior to the effective date of the termination. An ERC shall return all confidential data to the Coordinating Board within five (5) days of its receipt of a notice of termination and shall not retain a copy, replica, or duplicate thereof, whether in whole or in part. The Commissioner may suspend an ERC while determining whether the ERC's failure to meet the requirements of state or federal law, of this subchapter, or of the terms of a contract establishing the ERC are of such significance to warrant termination. An ERC may not operate while it is suspended.

(d) Notice of termination under subsection (c) of this section shall be provided to the ERC's designated representative and shall contain information regarding the reasons for the termination.

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

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Douglas Brock
General Counsel
Texas Higher Education Coordinating Board
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# CHAPTER 4. RULES APPLYING TO ALL PUBLIC INSTITUTIONS OF HIGHER EDUCATION IN TEXAS

## SUBCHAPTER D. DUAL CREDIT PARTNERSHIPS BETWEEN SECONDARY SCHOOLS AND TEXAS PUBLIC COLLEGES

### 19 TAC §§4.81 - 4.88

The Texas Higher Education Coordinating Board (Coordinating Board) proposes amendments to Texas Administrative Code, Title 19, Part 1, Chapter 4, Subchapter D, §§4.81 - 4.87, and new §4.88, concerning Dual Credit Partnerships Between Secondary Schools and Texas Public Colleges. Specifically, these amendments and new rule will improve transparency and implementation of dual credit rules. The Coordinating Board used negotiated rulemaking to consider the proposed amendments to the rules. The Coordinating Board will make reports of negotiated rulemaking committees available upon request.

Texas Education Code, §28.009(b), §28.0095, §61.059(p), §130.001(b)(3) - (4) and §130.008, provide the Coordinating Board with the authority to regulate dual credit partnerships between public institutions of higher education and secondary schools with regard to lower division courses, and provide funding for dual credit courses, including courses offered under the FAST program.

Section 4.81, Purpose, is amended to specify that this subchapter is to provide rules and regulations for public institutions of higher education to engage in dual credit partnerships with secondary schools, including dual credit partnerships that are eligible for participation in the Financial Aid for Swift Transfer (FAST) Program pursuant to Chapter 13, Subchapter Q of this title.

Section 4.82, Authority, is amended to specify that Education Code, §§28.009(b), 28.0095, 61.059(p), 130.001(b)(3) - (4) and 130.008 provide the Coordinating Board with the authority to provide funding for dual credit courses, including courses offered for dual credit under the FAST program.

Section 4.83, Definitions, is amended by removing definitions for Avocational Course and Equivalent of a Semester Credit Hour. The definition of Career and Technical Education Course in this subchapter was replaced and is defined as a college-level course awarding semester credit hours and contained in the Workforce Education Course Manual (WECM). A definition of Dual Credit was added and defined as a system under which an eligible high school student enrolls in college course(s) and receives credit for the course(s) from both the college and the

high school. The definition of Dual Credit Course was replaced and defined as a course for which a student earns joint high school and college credit at an institution of higher education under Education Code, §130.008 or §28.009, and is one of the following course types: (i) a core curriculum course of the institution of higher education; (ii) a career and technical education course; (iii) a foreign language course. Language was added to specify that an Early College Education Program (Early College High School) or Other Early College Program may offer courses for dual credit that are not limited to dual credit courses types defined in this section if the course assists a student in earning a Board-approved certificate or associate degree while in high school. A definition of Early College Education Program (Early College High School) was added and defined as an early college education program as defined in, and meeting the requirements of, Texas Education Code, §29.908. A definition of Other Early College Program was added and defined as an early college program developed via an institutional agreement in partnership between an institution of higher education and a high school or school district that offers a course or courses that assist a student in earning a Board-approved certificate or associate degree while in high school. The definitions in this section were renumbered to account for those definitions that were added or removed.

Section 4.84, Institutional Agreements, is amended by removing language that requires institutions of higher education to report to the Coordinating Board a list of school districts and private schools with which it has agreements under this section, and the URL where these agreements are posted on the institution's Internet website. Reference to Texas Education Code, 130A.004 and 130A.101(c)(3), were removed as statutes from which statewide goals were developed.

Section 4.85, Dual Credit Requirements, is amended by replacing title of subsection (b) Student Eligibility with Student Eligibility for Dual Credit Course Enrollment. Language was added that: (1) requires a high school student to attend a public school, private school, parochial school, or a home school, to enroll in a dual credit course; (2) allow students to enroll in course that does not require demonstration of Texas Success Initiative college readiness, or a course that is part of a Level 1 workforce education certificate, without having to demonstrate enrollment eligibility requirements applicable to an academic course or a workforce education course that is part of a Level 2 workforce education certificate or an applied associate degree and requires demonstration of Texas Success Initiative college readiness. Language was added require a student who enrolls in an academic course, or a workforce education course that is part of a Level 2 workforce education certificate or an applied associate degree, and requires demonstration of Texas Success Initiative college readiness, to: (1) demonstrate that they are exempt under the provisions of the Texas Success Initiative as set forth in §4.54 (relating to Exemption), (2) demonstrate college readiness by achieving the minimum passing standards under the provisions of the Texas Success Initiative as set forth in §4.57 (relating to Texas Success Initiative Assessment College Readiness Standards) on relevant section(s) of an assessment instrument approved by the Board as set forth in §4.56 (relating to Texas Success Initiative Assessment Instrument); (3) meet the eligibility requirements for a Texas First Diploma under §4.402 (relating to Eligibility for Texas First Diploma); or (4) Achieve one of the following scores relevant to the Texas Success Initiative eligibility requirements of the course:

(I) State of Texas Assessment of Academic Readiness End of Course (STAAR EOC)

(-a-) a minimum score of 4000 on the English II STAAR EOC; and/or

(-b-) a minimum score of 4000 on the Algebra I STAAR EOC and passing grade in the Algebra II course;

(II) Preliminary SAT/National Merit Scholarship Qualifying Test (PSAT/NMSQT)

(-a-) a score of 460 on the evidence-based reading and writing (EBRW) test; and/or

(-b-) a score of 510 on the mathematics test;

(III) PreACT

(-a-) a combined score of 40 on the English and Reading (E+R) tests; and/or

(-b-) score of 22 on the mathematics test.

Language was added that requires an institution of higher education to apply the same enrollment and admission criteria and conditions for a high school student who attends a public, private, parochial, or home school, in accordance with Texas Education Code, §51.9675 (Equal Access to Dual Credit Courses). Language was added that states an institution of higher education is not required to offer dual credit courses for high school students.

Section 4.86, Optional Dual Credit or Dual Enrollment Program: College Connect Courses, is amended by adding language to update the title of Texas Administrative Code §4.57 to Texas Success Initiative Assessment College Readiness Standards. Language was added to update the title of Texas Administrative Code §4.87 to Dual Credit Course Funding.

Section 4.87, Dual Credit Course Funding, is amended by replacing the language of subsection (a) Funding with (a) Dual Credit Course Funding. Language was added that states a Dual Credit Course, a course offered under an Early College Education Program (Early College High School), or a course offered under an Other Early College Program, may be submitted for funding under Texas Education Code, §61.059(p), or Chapter 13, Subchapter W of this title (relating to Community College Finance Program: Base and Performance Tier Methodology Beginning in Fiscal Year 2027) if the course is: (1) A course in the core curriculum; (2) A foreign language course; (3) A career and technical education course; (4) A course in a program of study; or (5) A course in a field of study. Language was added that permits an institution of higher education to submit a Dual Credit Course, a course offered under an Early College Education Program (Early College High School), or a course offered under an Other Early College Program, for funding under the FAST program of Chapter 13, Subchapter Q of this title (relating to Financial Aid for Swift Transfer (FAST) Program) only if the course meets all requirements of that subchapter. Language was added that permits a public junior college to report a course for funding for which a high school student may earn college credit that does not otherwise meet the requirements of this subchapter for the purpose of calculating base tier funding according to the provisions of Chapter 13, Subchapter W of title 19. Such a course is not considered a dual credit course under Title 19, Part 1. Language was added that indicates this subchapter does not prohibit an Early College High School under Texas Education Code, §28.908, from participating in or receiving funding under the FAST program of Chapter 13, Subchapter Q of Title 19. Language was added that permits an institution of higher education

to waive all or part of tuition and fees for a Texas high school student enrolled in a course for which the student may receive dual credit.

Section 4.88, Effective Date, is established to provide an effective date.

Daniel R. Pérez, Associate Commissioner for Academic & Workforce Initiatives, has determined that for each of the first five years the sections are in effect there would be no fiscal implications for state or local governments as a result of enforcing or administering the rules. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rules. There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rules.

There is no impact on small businesses, micro businesses, and rural communities. There is no anticipated impact on local employment.

Daniel R. Pérez, Associate Commissioner for Academic & Workforce Initiatives, has also determined that for each year of the first five years the sections are in effect, the public benefit anticipated as a result of administering the sections will be improving transparency and implementation of dual credit rules. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

Government Growth Impact Statement

(1) the rules will not create or eliminate a government program;

(2) implementation of the rules will not require the creation or elimination of employee positions;

(3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;

(4) the rules will not require an increase or decrease in fees paid to the agency;

(5) the rules will not create a new rule;

(6) the rules will not limit an existing rule;

(7) the rules will not change the number of individuals subject to the rule; and

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

Comments on the proposed rules or information related to the cost, benefit, or effect of the proposed rules, including any applicable data, research or analysis, may be submitted to Daniel R. Pérez, Associate Commissioner for Academic & Workforce Initiatives, P.O. Box 12788, Austin, Texas 78711-2788, or via email at AHAComments@highered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register.*

The amendments and new section is proposed under Texas Education Code, Section 28.009(b), which provides authority to the Coordinating Board to adopt rules on dual credit.

The proposed amendments and new section affects Texas Education Code, Sections 51.9675 and 28.009(b).

*§4.81. Purpose.*

This subchapter provides rules and regulations for public institutions of higher education to engage in dual credit partnerships with secondary schools, including dual credit partnerships that are eligible for participation in the Financial Aid for Swift Transfer (FAST) Program pursuant to Chapter [~~chapter~~] 13, Subchapter [~~subchapter~~] Q of this title (relating to Financial Aid for Swift Transfer (FAST) Program).

*§4.82. Authority.*

Education Code, §§28.009(b), 28.0095, 61.059(p), 130.001(b)(3) - (4) and 130.008, provide the Coordinating Board with the authority to regulate dual credit partnerships between public institutions of higher education and secondary schools with regard to lower division courses, and provide funding for dual credit courses, including courses offered for dual credit under the FAST program.

*§4.83. Definitions.*

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

[~~(1) Avocational Course--A course of study in a subject or activity that is usually engaged in by a person in addition to the person's regular work or profession for recreation or in relation to a hobby, including a community interest course, as defined in Education Code, §130.351(2).~~]

(1) [~~(2)~~] Board--The governing body of the agency known as the Texas Higher Education Coordinating Board.

(2) Career and Technical Education Course--For the purposes of this subchapter includes a college-level course awarding semester credit hours and contained in the Workforce Education Course Manual (WECM).

[~~(3) Career and Technical Education Course--A workforce or continuing education college course offered by an institution of higher education for which a high school student may earn credit toward satisfaction of a requirement necessary to obtain an industry-recognized credential, certificate, or associate degree.~~]

[~~(A) A career and technical education course is listed in the Workforce Education Course Manual (WECM).~~]

[~~(B) For the purpose of this subchapter, this definition excludes:~~]

~~*(i)* an avocational course;~~]

~~*(ii)* a continuing education course that is ineligible for conversion as articulated college credit; and~~]

~~*(iii)* a continuing education course that does not meet the institution's program or instructor accreditation standards.~~]

(3) [~~(4)~~] Certificate--A Certificate Program as defined in Education Code, §61.003(12).

(4) [~~(5)~~] College Board Advanced Placement (also referred to as Advanced Placement or AP)--An advanced academic high school course authorized by College Board potentially leading to college credit based on the student's score on the Advanced Placement exam. [~~College-level courses and exams available to secondary students under the auspices of an approved College Board program.~~]

(5) [~~(6)~~] Commissioner--The Commissioner of Higher Education.

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

(7) [~~(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.

(8) [~~(9)~~] Degree-Seeking Student--A student who has filed a degree plan with an institution of higher education or is required to do so pursuant to Education Code, §51.9685.

(9) Dual Credit--A system under which an eligible high school student enrolls in college course(s) and receives credit for the course(s) from both the college and the high school.

(10) Dual Credit Course--

(A) A course for which a student earns joint high school and college credit at an institution of higher education under Education Code, §130.008 or §28.009, and is one of the following course types:

*(i)* a core curriculum course of the institution of higher education;

*(ii)* a career and technical education course;

*(iii)* a foreign language course.

(B) An Early College Education Program (Early College High School) or Other Early College Program may offer courses for dual credit that are not limited to courses prescribed in subparagraph (A) of this paragraph if the course assists a student in earning a Board-approved certificate or associate degree while in high school.

[~~(10) Dual Credit Course or Dual Enrollment Course--A course that meets the following requirements:~~]

[~~(A) The course is offered pursuant to an agreement under §4.84 of this subchapter (relating to Institutional Agreements).~~]

[~~(B) A course for which the student may earn one or more of the following types of credit:~~]

*[~~(i)~~* ~~joint high school and junior college credit under Education Code, §130.008, or~~]

*[~~(ii)~~* ~~another course offered by an institution of higher education, for which a high school student may earn semester credit hours or equivalent of semester credit hours toward satisfaction of:~~]

*[~~(I)~~* ~~a course defined in paragraph (3) of this section that satisfies a requirement necessary to obtain an industry-recognized credential, certificate, or an associate degree;~~]

*[~~(II)~~* ~~a foreign language requirement at an institution of higher education;~~]

*[~~(III)~~* ~~a requirement in the core curriculum, as that term is defined by Education Code, §61.821, at an institution of higher education; or~~]

*[~~(IV)~~* ~~a requirement in a field of study curriculum developed by the Coordinating Board under Education Code, §61.823.~~]

[~~(C) Dual credit includes a course for which a high school student may earn credit only at an institution of higher education (previously referred to as a dual enrollment course) if the course meets the requirements of this section.~~]

[~~(D) A student may earn a single grade toward both the college course and the high school credit or may earn two separate grades where the high school grade only reflects a student's mastery of secondary content.~~]

[~~(E) Dual credit and dual enrollment are synonymous in Title 19, Part 1 of these rules unless otherwise expressly provided by rule.~~]

[~~(F) Each dual credit course must meet the requirements of this subchapter.~~]

(11) Early College Education Program (Early College High School)--An early college education program as defined in, and meeting the requirements of, Texas Education Code, §29.908.

(12) Other Early College Program--An early college program developed via an institutional agreement in partnership between an institution of higher education and a high school or school district that offers a course or courses that assist a student in earning a Board-approved certificate or associate degree while in high school.

[~~(11) 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 10 contact hours of instruction. This may be expressed as a decimal of 1.6 continuing education units of instruction which equals one semester credit hour of instruction. In a continuing education course, not fewer than 16 contact hours are equivalent to one semester credit hour.~~]

(13) [~~(12)~~] Field of Study Curriculum (FOSC)--A Board-approved set of courses authorized under Subchapter B of this chapter (relating to Transfer of Credit, Core Curriculum and Field of Study Curricula) that satisfies lower-division requirements for a baccalaureate degree in a specific academic area at a general academic teaching institution. A field of study curriculum is designed to facilitate transfer of courses toward designated academic degree programs at public junior colleges, public technical institutes, or universities.

(14) [~~(13)~~] Home School--A private school that provides secondary education instruction in a bona fide manner from curriculum designed to meet basic education goals at or through a child's home by the parent or a person standing in parental authority.

(15) [~~(14)~~] Institution of Higher Education or Institution--A public institution of higher education as defined in Education Code, §61.003(8).

(16) [~~(15)~~] International Baccalaureate Diploma Program (also referred to as IB)--The curriculum and examinations leading to an International Baccalaureate diploma awarded by the International Baccalaureate Organization.

(17) [~~(16)~~] Locally Articulated College Credit--Credit earned through a high school course that fulfills specific requirements identified by a college for a career and technical education course and provides a pathway for high school students to earn credit toward a technical certificate or technical degree at a partnering institution of higher education upon high school graduation.

(18) [~~(17)~~] Program of Study Curriculum (POSC)--A block of courses which is designed to progress in content specificity for an industry or career cluster while also incorporating rigorous college and career readiness standards, authorized under Education Code, §61.8235. A POSC generally incorporates multiple entry and exit points for participating students with portable demonstrations of technical or career competency, including credit transfer agreements or industry-recognized credentials.

(19) [~~(18)~~] Public Two-Year College--Any public junior college, public technical institute, or public state college as defined in Education Code, §61.003.

(20) [~~(19)~~] School District--Under this subchapter, school district includes a charter school or district operating under Education Code, Chapter [~~chapter~~] 12, unless otherwise specified.

(21) [~~(20)~~] 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 pe-

riod 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.

*§4.84. Institutional Agreements.*

(a) Need for Institutional Agreements. For any dual credit partnership between a school district or private school and an institution, an agreement must be approved by the governing boards or designated authorities (e.g., superintendent or chief academic officer) of both the public school district or private secondary school, as applicable, and the institution prior to the offering of such courses. [~~Each institution shall report to the Coordinating Board a list of school districts and private schools with which it has agreements under this section, and the URL where these agreements are posted on the institution's Internet website.~~]

(b) Elements of Institutional Agreements. An Institutional Agreement entered into or renewed between an institution and a school district or private school, including a memorandum of understanding or articulation agreement, shall include the following elements:

(1) Eligible Courses;

(2) Student Eligibility;

(3) Location of Class;

(4) Student Composition of Class;

(5) Faculty Selection, Supervision, and Evaluation;

(6) Course Curriculum, Instruction, and Grading;

(7) Academic Policies and Student Support Services;

(8) Transcripting of Credit;

(9) Funding, including the sources of funding for courses offered under the program, including, at a minimum, the sources of funding for tuition, transportation, and any required fees, instructional materials, or textbooks for students participating in the program, including for students eligible to take dual credit courses at no cost to the student under the FAST program, under Texas Administrative Code, Chapter 13, Subchapter Q;

(10) All requirements for joint implementation of the FAST program under Education Code, §28.0095, including ensuring the accurate and timely exchange of information necessary for an eligible student to enroll at no cost in a dual credit course, for eligible public schools and students participating in the FAST program, under Texas Administrative Code, Chapter 13, Subchapter Q;

(11) Defined sequences of courses that apply to academic or career and technical education program requirements at the institution or industry-recognized credentials, where applicable;

(12) Specific program goals aligned with the statewide goals developed under Education Code, §§28.009(b-1)[, ~~130A.004, and 130A.101(e)(3)~~];

(13) Coordinated advising strategies and terminology related to dual credit and college readiness, including strategies to assist students in selecting courses that will satisfy applicable high school and college requirements for the student's intended program;

(14) Provision for the alignment of endorsements described by Education Code, §28.025(c-1), offered by the school district and dual credit courses offered under the agreement that apply toward those endorsements with postsecondary pathways and credentials at the institution and industry-recognized credentials;

(15) Identification of tools, including online resources developed by the Texas Education Agency, Coordinating Board, or the Texas Workforce Commission, to assist counselors, students, and families in selecting endorsements offered by the school district and college courses offered by the institution under the agreement;

(16) A procedure for establishing the course credits that may be earned under the agreement, including developing a course equivalency crosswalk or other method of identifying the number of high school and college credits that may be earned for each course completed through the program;

(17) A description of the academic supports and, if applicable, other support that will be provided to students participating in the program (e.g., transportation to and from a college campus);

(18) The respective roles and responsibilities of the institution of higher education and the school district or private school in providing the program and ensuring the quality of instruction and instructional rigor of the program;

(19) A requirement that the school district and the institution consider the use of free or low-cost open educational resources in courses offered under the program; and

(20) Designation of at least one employee of the school district or private school, or the institution as responsible for providing academic advising to a student who enrolls in a dual credit course under the program before the student begins the course.

(c) Each Agreement must be posted each year on the institution of higher education's and the school district's respective Internet websites.

(d) Institutional Agreements for Dual Credit Purposes Between Institutions and Home schools.

(1) An institution that has an institutional agreement with a public school district, charter school or private secondary school for the purpose of a dual credit partnership shall similarly accept or offer an institutional agreement with a home school.

(2) An institution may not, on the basis that a school is a home school, deny, delay, or obstruct the provision or execution of an institutional agreement with the home school, or impose additional criteria, conditions, or requirements pertaining to the institutional agreement that would not otherwise be applicable to institutional agreements with a public school district, charter school or private secondary school. Final decisions regarding such agreements remain at the discretion of the institution, provided it otherwise complies with the requirements of this section.

(3) For the purpose of approving, signing, and executing an institutional agreement between an institution and a home school, the institution shall recognize a home school as having equivalent approval and signatory authority to a private secondary school as described by subsection (a) of this section.

*§4.85. Dual Credit Requirements.*

(a) Eligible Courses.

(1) An institution may offer any dual credit course as defined in §4.83(10) [~~§4.83(11)~~] of this subchapter (relating to Definitions).

(2) A dual credit course offered by an institution must be in the approved undergraduate course inventory of the institution.

(3) An Early College High School may offer any dual credit course as defined in §4.83(10) [~~§4.83(11)~~] or Texas Education

Code, §28.009 and §130.008, subject to the provisions of Subchapter G of this chapter (relating to Early College High Schools).

(4) An institution may not offer a remedial or developmental education course for dual credit. This limitation does not prohibit an institution from offering a dual credit course that incorporates Non-Course-Based College Readiness content or other academic support designed to increase the likelihood of student success in the college course, including any course offered under §4.86 of this subchapter (relating to Optional Dual Credit Program: College Connect Courses).

(b) Student Eligibility for Dual Credit Course Enrollment.

(1) To enroll in a dual credit course, a student shall be a high school student who attends a public school, private school, parochial school, or a home school; and

[(1) A high school student is eligible to enroll in dual credit courses if the student:]

[(A) is not a degree-seeking student as defined in §4.83(10) of this subchapter (relating to Definitions);]

[(B) demonstrates that he or she is exempt under the provisions of the Texas Success Initiative as set forth in §4.54 of this chapter (relating to Exemption);]

[(C) demonstrates college readiness by achieving the minimum passing standards under the provisions of the Texas Success Initiative as set forth in §4.57 of this chapter (relating to Texas Success Initiative Assessment College Readiness Standards) on relevant section(s) of an assessment instrument approved by the Board as set forth in §4.56 of this chapter (relating to Assessment Instrument); or]

[(D) Meets the eligibility requirements for a Texas First Diploma under §21.52 of this title (relating to Eligibility for Texas First Diploma).]

(2) If the dual credit course does not require demonstration of Texas Success Initiative college readiness (i.e. is not TSI-liable), or the course is part of a Level 1 workforce education certificate, a student shall not be required to meet eligibility requirements prescribed in paragraph (3) of this subsection.

[(2) A student who is enrolled in private or non-accredited secondary schools or who is home-schooled must satisfy paragraph (b)(1) of this subsection.]

(3) If the dual credit course:

(A) is an academic course; or

(B) is a workforce education course that is part of a Level 2 workforce education certificate or an applied associate degree; and

(C) requires demonstration of Texas Success Initiative college readiness; a student shall:

*(i)* Demonstrate that they are exempt under the provisions of the Texas Success Initiative as set forth in §4.54 of this chapter (relating to Exemption);

*(ii)* Demonstrate college readiness by achieving the minimum passing standards under the provisions of the Texas Success Initiative as set forth in §4.57 of this chapter (relating to Texas Success Initiative Assessment College Readiness Standards) on relevant section(s) of an assessment instrument approved by the Board as set forth in §4.56 of this chapter (relating to Texas Success Initiative Assessment Instrument);

*(iii)* Meet the eligibility requirements for a Texas First Diploma under §4.402 of this chapter (relating to Eligibility for Texas First Diploma); or

*(iv)* Achieve the following scores relevant to the Texas Success Initiative eligibility requirements of the course:

*(I)* State of Texas Assessment of Academic Readiness End of Course (STAAR EOC)

(-a-) a minimum score of 4000 on the English II STAAR EOC; and/or

(-b-) a minimum score of 4000 on the Algebra I STAAR EOC and passing grade in the Algebra II course;

*(II)* Preliminary SAT/National Merit Scholarship Qualifying Test (PSAT/NMSQT)

(-a-) a score of 460 on the evidence-based reading and writing (EBRW) test; and/or

(-b-) a score of 510 on the mathematics test;

*(III)* PreACT

(-a-) a combined score of 40 on the English and Reading (E+R) tests; and/or

(-b-) score of 22 on the mathematics test.

[(3) An institution may require a student who seeks to enroll in a dual credit course to meet all the institution's regular prerequisite requirements designated for that course (e.g., a minimum score on a specified placement test, minimum grade in a specified previous course, etc.).]

(4) In admitting or enrolling students in a dual credit course, an institution shall apply the same enrollment and admission criteria and conditions for a high school student who attends a public, private, parochial, or home school, in accordance with Texas Education Code, §51.9675 (Equal Access to Dual Credit Courses).

[(4) An institution may impose additional requirements for enrollment in specific dual credit courses that do not conflict with this subchapter.]

(5) An institution is not required, under the provisions of this section, to offer dual credit courses for high school students.

[(5) An institution is not required, under the provisions of this section, to offer dual credit courses for high school students.]

(c) Location of Class. An institution may teach dual credit courses on the college or university campus or on the high school campus.

(1) For dual credit courses taught exclusively to high school students on the high school campus and for dual credit courses taught via distance education, the institution shall comply with Chapter 2, Subchapter J, of this title (relating to Approval of Distance Education for Public Institutions).

(2) An institution may offer the same dual credit course to a high school student who attends a public, private, parochial, or home school, through an alternate delivery method (e.g., distance education, asynchronous online, or hybrid format) if the existing method is not reasonably accessible to that student.

(3) An institution is not required to create an additional section of the same course in another format or location (e.g., on campus, distance education, asynchronous online, or hybrid) to serve high school students.

(d) Composition of Class. A dual credit course may be composed of dual credit students only or of a mixture of dual credit and college students. Notwithstanding the requirements of subsection (e)

of this section, exceptions for a mixed class that combines dual credit students and high school credit-only students may be allowed when the creation of a high school credit-only class is not financially viable for the high school and only under one of the following conditions:

(1) If the course involved is required for completion under the State Board of Education High School Program graduation requirements;

(2) If the high school credit-only students are College Board Advanced Placement or International Baccalaureate students; or

(3) If the course is a career and technical education course and the high school credit-only students are eligible to earn articulated college credit.

(e) Faculty Selection, Supervision, and Evaluation. Each institution shall apply the standards for selection, supervision, and evaluation for instructors of dual credit courses as required by the institution's accreditor. A high school teacher may only teach a high school course offered through a dual credit agreement if the teacher is approved by the institution offering the dual credit course.

(f) Course Curriculum, Instruction, and Grading. The institution shall ensure that a dual credit course offered at a high school is at least equivalent in quality to the corresponding course offered at the main campus of the institution with respect to academic rigor, curriculum, materials, instruction, and methods of student evaluation. These standards must be upheld regardless of the student composition of the class, location, and mode of delivery.

(g) Academic Policies and Student Support Services.

(1) Regular academic policies applicable to courses taught at an institution's main campus must also apply to dual credit courses. These policies may include the appeal process for disputed grades, drop policy, the communication of grading policy to students, when the syllabus must be distributed, etc. Additionally, each institution is strongly encouraged to provide maximum flexibility to high school students in dual credit courses, consistent with the institution's academic policies, especially with regard to drop policies, to encourage students to attempt rigorous courses without potential long-term adverse impacts on students' academic records.

(2) Each student in a dual credit course must be eligible to utilize support services that are appropriate for dual credit students. The institution is responsible for ensuring timely and efficient access to such services (e.g., academic advising and counseling), to learning materials (e.g., library resources), and to other benefits for which the student may be eligible.

(3) A student enrolled in a dual credit course at an institution shall file a degree plan with the institution as prescribed by Texas Education Code, §51.9685.

(h) Transcripting of Credit. Each institution or high school shall immediately transcript the credit earned by a student upon a student's completion of the performance required in the course.

*§4.86. Optional Dual Credit or Dual Enrollment Program: College Connect Courses.*

(a) Authority. These rules are authorized by Texas Education Code, §§28.009(b), 28.0095, 130.001(b)(3) - (4), and 130.008.

(b) Purpose. The purpose of this rule is to encourage and authorize public institutions of higher education to deliver innovatively designed dual credit courses that integrate both college-level content in the core curriculum of the institution alongside college-readiness content and skills instruction. These innovatively designed courses will allow students the maximum flexibility to obtain college credit and provide integrated college readiness skills to students who are on the continuum of college readiness and will benefit from exposure to college-level content.

(c) Student eligibility. An eligible student must be enrolled in a public school district or open-enrollment charter as defined in Texas Education Code, §5.001(6), and meet the requirements of §4.85(b) of this subchapter (relating to Dual Credit Requirements). Notwithstanding §4.85(b), an institution may enroll a high school student who is not exempt or college ready under the requirements of §4.54 or §4.57 of this chapter (relating to Exemptions, and Texas Success Initiative Assessment College Readiness Standards [~~Exceptions, and Waivers and College Ready Standards~~], respectively) in a math or communications College Connect Course offered by the institution.

(d) Course content. The following standards apply to delivery of College Connect Courses offered under this rule:

(1) An institution may only offer College Connect Courses within the institution's core curriculum in accordance with §4.28 of this chapter (relating to Core Curriculum).

(2) An institution shall also incorporate supplemental college readiness content to support students who have not [~~yet~~] demonstrated college readiness, as defined in §4.57, within these courses. The supplemental college readiness content shall be related to and integrated with the subject matter of the course. An institution may deliver this supplemental instruction through a method at their discretion, including through embedded course content, supplemental coursework, or other methods.

(e) The Coordinating Board may provide technical assistance to an institution of higher education or school district in developing and providing these courses.

(f) Additional Academic Policies.

(1) College Connect Courses offered through dual credit must confer both a college-level grade and a secondary-level grade upon a student's successful completion of the course. A grade conferred for the college-level course may be different from the secondary-level grade, to reflect whether a student has appropriately demonstrated college-level knowledge and skills as well as secondary-level knowledge and skills. An institution may determine how a student enrolled in this course may earn college credit, whether through college-level course completion or successful completion of a recognized college-level assessment that the institution would otherwise use to award college credit.

(2) An institution must enter into an institutional agreement with the secondary school according to §4.84 of this subchapter (relating to Institutional Agreements) to offer College Connect Courses.

[~~(3) An institution is strongly encouraged to provide the maximum latitude possible for a student to withdraw from the college-level course component beyond the census date, while still giving the student an opportunity to earn credit toward high school graduation requirements, in accordance with §4.85(g) of this subchapter (relating to Dual Credit Requirements).~~]

(3) [~~(4)~~] Hours earned through this program before the student graduates from high school that are used to satisfy high school graduation requirements do not count against the limitation on formula funding for excess semester credit hours under §13.104 of this title (relating to Exemptions for Excess Hours).

(g) Funding and Tuition. The Coordinating Board shall fund College Connect Courses in accordance with §4.87 of this subchapter (relating to Dual Credit Course Funding).

*§4.87. Dual Credit Course Funding.*

(a) A Dual Credit Course, a course offered under an Early College Education Program (Early College High School), or a course offered under an Other Early College Program, may be submitted for funding under Texas Education Code, 61.059(p), or Chapter 13, Subchapter W of this title (relating to Community College Finance Program: Base and Performance Tier Methodology Beginning in Fiscal Year 2027) if the course is one of the following:

(1) A course in the core curriculum;

(2) A foreign language course;

(3) A career and technical education course;

(4) A course in a program of study; or

(5) A course in a field of study.

[(a) A public junior college may submit for funding any course that meets the requirements of this subchapter as provided in chapter 13, subchapter S of this title (relating to Community College Finance Program), or chapter 13, subchapter P of this title (relating to Community College Finance Program for Fiscal Year 2024).]

(b) An institution may submit a Dual Credit Course, a course offered under an Early College Education Program (Early College High School), or a course offered under an Other Early College Program, for funding under the FAST program of Chapter 13, Subchapter Q of this title (relating to Financial Aid for Swift Transfer (FAST) Program) only if the course meets all requirements of that subchapter.

[(b) A public junior college may report a course for funding for which a high school student may earn college credit that does not otherwise meet the requirements of this subchapter for the purpose of calculating base tier funding according to the provisions of chapter 13, subchapter S or subchapter P of this title. Such a course is not considered a dual credit or dual enrollment course under Title 19, Part 1.]

(c) A public junior college may report a course for funding for which a high school student may earn college credit that does not otherwise meet the requirements of this subchapter for the purpose of calculating base tier funding according to the provisions of Chapter 13, Subchapter W of this title. Such a course is not considered a dual credit course under Title 19, Part 1.

[(c) An institution may submit a dual credit course for funding under the FAST program of chapter 13, subchapter Q of this title (relating to Financial Aid for Swift Transfer (FAST) Program) only if the course meets all requirements of that subchapter.]

(d) Nothing in this subchapter shall be construed to prohibit an Early College High School under Texas Education Code, §28.908, from participating in or receiving funding under the FAST program of Chapter 13, Subchapter Q of this title.

[(d) Nothing in this subchapter shall be construed to prohibit an Early College High School under Texas Education Code, §28.908, from participating in or receiving funding under the FAST program of chapter 13, subchapter Q of this title.]

(e) An institution may waive all or part of tuition and fees for a Texas high school student enrolled in a course for which the student may receive dual credit.

[(e) An institution may waive all or part of tuition and fees for a Texas high school student enrolled in a course for which the student may receive dual course credit.]

*§4.88. Effective Date.*

This subchapter is effective for enrollments in courses offered beginning with the fall 2027 semester.

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

Filed with the Office of the Secretary of State on July 23, 2026.

TRD-202603060
Douglas Brock
General Counsel
Texas Higher Education Coordinating Board
Earliest possible date of adoption: September 6, 2026
For further information, please call: (512) 427-6299

♦ ♦ ♦

## CHAPTER 7. DEGREE GRANTING COLLEGES AND UNIVERSITIES OTHER THAN TEXAS PUBLIC INSTITUTIONS

The Texas Higher Education Coordinating Board (Coordinating Board) proposes the repeal of Texas Administrative Code, Title 19, Part 1, Chapter 7, Subchapter A, §§7.1 - 7.16, General Provisions; and Subchapter B, §§7.50 - 7.57, Approval for Participation in the State Authorization Reciprocity Agreement (SARA) for Private or Independent Institutions of Higher Education and Private Postsecondary Educational Institutions. Specifically, Chapter 7 is being repealed and replaced with new Chapter 7 rules for clarity.

Texas Education Code, Chapter 61, Subchapter G, §§61.301 - 61.321 and Subchapter H, §§61.401 - 61.405, authorizes the Coordinating Board to regulate the awarding or offering of degrees, awarding or offering credit toward degrees, and use of certain academic terms by private postsecondary educational institutions and out-of-state public postsecondary educational institutions, Chapter 132, relating to career schools and colleges, and Texas Education Code, §61.05121, authorizes the Coordinating Board to administer state participation in State Authorization Reciprocity Agreements.

The Coordinating Board proposes the repeal of Chapter 7 as part of an effort to update agency rules. These new subchapters in Chapter 7 represent a structural overhaul of the private postsecondary rules designed to provide clarity for institutions by dividing key topic areas into separate subchapters to ensure the rules are clearly aligned with current practice and statutory authority.

Daniel R. Pérez, Associate Commissioner for Academic & Workforce Initiatives, has determined that for each of the first five years the sections are in effect there would be no fiscal implications for state or local governments as a result of enforcing or administering the rules. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rules. There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rules.

There is no impact on small businesses, micro businesses, and rural communities. There is no anticipated impact on local employment.

Daniel R. Pérez, Associate Commissioner for Academic & Workforce Initiatives, has also determined that for each year of the first five years the sections are in effect, the public benefit anticipated as the result of adopting these rules will be providing clarity for institutions by dividing key topic areas into separate subchapters and ensuring that the rules are clearly aligned with

current practice and statutory authority. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

Government Growth Impact Statement

(1) the rules will not create or eliminate a government program;

(2) implementation of the rules will not require the creation or elimination of employee positions;

(3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;

(4) the rules will not require an increase or decrease in fees paid to the agency;

(5) the rules will create a new rule;

(6) the rules will not limit an existing rule;

(7) the rules will not change the number of individuals subject to the rule; and

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

Comments on the proposed rules or information related to the cost, benefit, or effect of the proposed rules, including any applicable data, research or analysis, may be submitted to Daniel R. Pérez, Associate Commissioner for Academic & Workforce Initiatives, P.O. Box 12788, Austin, Texas 78711-2788, or via email at AHAComments@highered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

## SUBCHAPTER A. GENERAL PROVISIONS

**19 TAC §§7.1 - 7.16**

The repeal is proposed under Texas Education Code, Chapter 61, Subchapter G, §§61.301 - 61.321 and Subchapter H, §§61.401 - 61.405, which authorizes the Coordinating Board to regulate the awarding or offering of degrees, awarding or offering credit toward degrees, and use of certain academic terms by private postsecondary educational institutions and out-of-state public postsecondary educational institutions, and Chapter 132, relating to career schools and colleges.

The proposed repeal affects Texas Administrative Code, Title 19, Part 1, Chapter 7, Subchapter A, §§7.1 - 7.16.

*§7.1. Purpose.*

*§7.2. Authority.*

*§7.3. Definitions.*

*§7.4. Standards for Operation of Institutions.*

*§7.5. Administrative Injunctions, Limitations, and Penalties.*

*§7.6. Recognition of Accrediting Agencies.*

*§7.7. Institutions Accredited by Board-Recognized Accreditors.*

*§7.8. Institutions Not Accredited by a Board-Recognized Accreditor.*

*§7.9. Religious Institutions Offering Degrees in Religious Disciplines.*

*§7.10. Registration of Agents.*

*§7.11. Changes of Ownership and Other Substantive Changes.*

*§7.12. Review and Use of Degrees from Institutions Not Eligible for Certificates of Authority.*

*§7.13. Student Data Reporting.*

*§7.14. Distance Education Approval Processes for Degree Granting Colleges and Universities Other Than Texas Public Institutions.*

*§7.15. Academic Records Maintenance, Protection, and Repository of Last Resort.*

*§7.16. Financial Protections for Student Tuition and Fees.*

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

Filed with the Office of the Secretary of State on July 23, 2026.

TRD-202603062
Douglas Brock
General Counsel
Texas Higher Education Coordinating Board
Earliest possible date of adoption: September 6, 2026
For further information, please call: (512) 427-6299

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## SUBCHAPTER B. APPROVAL FOR PARTICIPATION IN THE STATE AUTHORIZATION RECIPROCITY AGREEMENT (SARA) FOR PRIVATE OR INDEPENDENT INSTITUTIONS OF HIGHER EDUCATION AND PRIVATE POSTSECONDARY EDUCATIONAL INSTITUTIONS

**19 TAC §§7.50 - 7.57**

The repeal is proposed under Texas Education Code, §61.05121, which authorizes the Coordinating Board to administer state participation in State Authorization Reciprocity Agreements.

The proposed repeal affects Texas Administrative Code, Title 19, Part 1, Chapter 7, Subchapter B, §§7.50 - 7.57.

*§7.50. Purpose.*

*§7.51. Authority.*

*§7.52. Definitions.*

*§7.53. Eligibility Criteria.*

*§7.54. Admission to SARA.*

*§7.55. Maintaining Eligibility.*

*§7.56. Complaint Resolution.*

*§7.57. Out-of-state SARA Participants.*

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

Filed with the Office of the Secretary of State on July 23, 2026.

TRD-202603063
Douglas Brock
General Counsel
Texas Higher Education Coordinating Board
Earliest possible date of adoption: September 6, 2026
For further information, please call: (512) 427-6299

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## SUBCHAPTER A. GENERAL PROVISIONS

The Texas Higher Education Coordinating Board (Coordinating Board) proposes new rules in Texas Administrative Code, Title 19, Part 1, Chapter 7, Subchapter A, §§7.1 - 7.3, General Provisions; Subchapter B, §§7.13 - 7.25, Standards for Operation of

Postsecondary Educational Institutions; Subchapter C, §§7.36 - 7.39, Recognition of Institutional Accrediting Agencies; Subchapter D, §§7.50 - 7.53, Certificate of Agent Registration; Subchapter E, §§7.65 - 7.74, Authorization of Accredited Institutions; Subchapter F, §§7.83 - 7.98, Requirements for Application, Renewal, and Amendments to a Provisional Certificate to Operate; Subchapter G, §§7.108 - 7.113, Requirements for Discontinuation or Revocation of a Provisional Certificate to Operate; Subchapter H, §§7.121 - 7.125, Review and Use of Degrees from Institutions Not Eligible for a Provisional Certificate to Operate; Subchapter I, §§7.135 - 7.137, Change of Ownership or Control and Other Substantive Changes; Subchapter J, §§7.148 - 7.151, Closure of a Private Postsecondary Educational Institution; Subchapter K, §§7.163 - 7.169, Administrative Injunctions, Limitations, and Penalties; Subchapter L, §§7.180 - 7.185, Student Data and Protections; Subchapter M, §§7.196 - 7.199, Distance Education Approval for Degree-granting Educational Institutions Outside of Texas; Subchapter N, §§7.210 - 7.217, Participation in the State Authorization Reciprocity Agreement (SARA). Specifically, these new subchapters in Chapter 7 represent a structural overhaul of the private postsecondary rules designed to provide clarity for institutions by dividing key topic areas into separate subchapters and ensuring that the rules are clearly aligned with current practice and statutory authority.

The Coordinating Board is required to promulgate this chapter under Texas Education Code (TEC), Chapter 61, Subchapter G (§§61.301 - 61.321), which governs the regulation of private postsecondary educational institutions and public out-of-state postsecondary institutions operating in Texas, TEC, Subchapter B (§61.026), related to advisory committees, TEC, Subchapter G (§61.314), relating to an advisory council on private postsecondary educational institutions, TEC, Subchapter H (§§61.401 - 61.405), relating to the regulation of academic terminology, and TEC, Chapter 132, which pertains to career schools and colleges.

Subchapter A. General Provisions (§§7.1 - 7.3)

Section 7.1, Authority and Purpose, identifies the relevant statutes that govern the regulation of private postsecondary institutions and defines that the purpose of the chapter is to establish the standards and procedures to which these institutions must adhere.

Section 7.2, Definitions, establishes definitions for key terms relevant to the chapter.

Section 7.3, Non-Oversight of Religious Instruction Degrees, clarifies that institutions providing religious instruction only are exempt from the requirements of this chapter.

Subchapter B. Standards for Operation of Postsecondary Educational Institutions (§§7.13 - 7.25)

Section 7.13, Purpose and Applicability, defines the purpose of the standards and identifies the institutions that are required to meet the requirements of the subchapter.

Section 7.14, Standard I-Legal Compliance, defines that institutions are required to follow all applicable federal, state, and local laws, as well as any regulations and ordinances for operation of an institution and business in Texas.

Section 7.15, Standard II-Institutional Structure and Administration, specifies the requirements each institution must meet to have the appropriate administrative structure that supports its mission, ensures accountability, and protects the interests of students, faculty, and staff.

Section 7.16, Standard III-Financial Resources and Records, specifies the requirements each institution must meet to ensure adequate financial resources and financial stability to provide education of good quality and to fulfill its commitments to students.

Section 7.17, Standard IV-Faculty Resources, specifies the requirements each institution must meet to ensure it has the necessary faculty resources to deliver an education that ensures student success and that is consistent with the objectives of each course and degree program offered.

Section 7.18, Standard V-Facilities, specifies the requirements each institution must meet to ensure it has adequate space, equipment, and instructional materials to provide education of good quality.

Section 7.19, Standard VI-Student Support, specifies the requirements each institution must meet to ensure it has student support services that ensure student success during enrollment at the institution and after graduation.

Section 7.20, Standard VII-Student Rights and Responsibilities, specifies the requirements each institution must meet to ensure it adheres to, and makes publicly available, clear policies on student conduct, due process, and grievance procedures, including student grievance procedures.

Section 7.21, Standard VIII-Curriculum, specifies the requirements each institution must meet to ensure that for each degree program proposed, the institution has clearly structured and academically rigorous program that aligns with the institution's mission and learning objectives.

Section 7.22, Standard IX-Learning Resources, specifies the requirements each institution must meet to ensure the institution provides access for faculty and students to current, organized, inventoried, and discipline-appropriate learning materials, instructional support, online learning resources and policies, and learning management systems.

Section 7.23, Standard X-Learning Outcomes and Program Assessment, specifies the requirements each institution must meet to ensure it has defined and appropriate learning outcomes and methods for assessing success in its degree programs.

Section 7.24, Standard XI-Institutional Assessment, specifies the requirements each institution must meet to ensure ongoing institutional assessment to improve academic programs, administration, finances, student services, facilities, and other operations.

Section 7.25, Standard XII-Policies, Procedures and Publications, specifies the requirements each institution must meet to maintain appropriate, publicly available, up-to-date policies, procedures, and publications for the fair and transparent operation of the institution.

Subchapter C. Recognition of Institutional Accrediting Agencies (§§7.36 - 7.39)

Section 7.36, Eligibility Criteria for Institutional Accrediting Agency Recognition, establishes criteria that accrediting agencies must meet in order to be recognized by the Coordinating Board.

Section 7.37, Application for Accrediting Agency Recognition, establishes the process for accreditors to submit an application to the Coordinating Board for recognition as an accrediting agency.

Section 7.38, Maintenance of Accrediting Agency Recognition, establishes the steps an accrediting agency must take in order to maintain Board-recognition.

Section 7.39, Denial or Withdrawal of Board-Recognition, establishes the criteria and steps for a withdrawal of Board approval.

Subchapter D. Certificate of Agent Registration (§§7.50 - 7.53)

Section 7.50, Activities Requiring a Certificate of Agent Registration, specifies the conditions under which an individual must register with the Coordinating Board as an agent.

Section 7.51, Required Application for a Certificate of Agent Registration, identifies the steps required to apply for a Certificate of Agent Registration.

Section 7.52, Reapplication for a Certificate of Agent Registration, specifies the time frames required for reapplication of the Certificate.

Section 7.53, Revocation of a Certificate of Agent Registration, outlines the criteria for revocation and the steps taken upon revocation.

Subchapter E. Authorization of Accredited Institutions (§§7.65 - 7.74)

Section 7.65, Requirement to Apply for Accredited Institution Authorization, identifies the entities which are required to apply for a Certificate of Authorization and limitations on applications.

Section 7.66, Application for a Certificate of Authorization, sets forth the scope of the application and the information which must be included in the application.

Section 7.67, Board Review and Issuance of Certificate of Authorization, provides the process for review and issuance of a Certificate of Authorization.

Section 7.68, Annual Compliance Review of Certificates of Authorization, provides information which must be submitted to ensure an institution has continued compliance with the requirements for a Certificate of Authorization. The annual compliance reports are divided by institution name and presented over two board meetings to allow sufficient time for timely review.

Section 7.69, Changes During Operation under a Certificate of Authorization, provides a time requirement for reporting changes while operating under a Certificate of Authorization. These changes may require issuance of a revised Certificate of Authorization after review by the Coordinating Board.

Section 7.70, Certificates of Authorization Expiration and Renewal, provides length of time a Certificate of Authorization will be valid and the process to request renewal of the Certificate of Authorization.

Section 7.71, Criteria for Initiating Revocation Procedures for a Certificate of Authorization, identifies the conditions under which the Coordinating Board has authority to initiate revocation procedures for an institution's Certificate of Authorization.

Section 7.72, Revocation Procedures for a Certificate of Authorization, provides the process for notification of the revocation procedures and steps for institutional request for review and appeal of revocation decision.

Section 7.73. Temporary Provisional Certificate to Operate, establishes criteria under which the Commissioner may transition an institution to a temporary Provisional Certificate to Operate and procedures required for the transition.

Section 7.74, Placing Conditions on a Certificate of Authorization, establishes procedures by for institutional notifications and procedures for the institution request a review or appeal of the conditions.

Subchapter F. Requirements for Application, Renewal, and Amendments to a Provisional Certificate to Operate (§§7.83 - 7.98)

Section 7.83, Purpose and Applicability, establishes that the subchapter is to outline the requirements for a Provisional Certificate to Operate and applies to non-accredited institutions that meet certain criteria.

Section 7.84, Restrictions on Professional Degrees, outlines the statutory limitations for professional degrees for institutions operating under a Provisional Certificate to Operate.

Section 7.85, Application for a Provisional Certificate to Operate, outlines the application requirements that institutions must meet.

Section 7.86, Required Fees, outlines requirements related to fees associated with initial applications, renewals, and amendments to Provisional Certificates to Operate.

Section 7.87, Required Desk Review, outlines the requirements for a desk review related to a Provisional Certificate to Operate and the potential outcomes associated with a desk review.

Section 7.88, Required Site Visit and Site Visit Team, outlines the requirements for a site visit related to a Provisional Certificate to Operate and the potential outcomes associated with a site visit.

Section 7.89, Site Visit Team Assessment, outlines the possible ratings an institution can receive for its initial application on each Standard for Operation in Subchapter B, and the outcomes associated with each rating.

Section 7.90, Ratings Required for the Renewal of a Provisional Certificate to Operate, outlines the possible ratings an institution can receive on its renewal application for each Standard for Operation in Subchapter B, and the outcomes associated with each rating.

Section 7.91, Site Visit Report and Applicant Response, outlines the steps required to prepare and submit a site visit report and the process to submit an institutional response.

Section 7.92, Recommendation to the Commissioner and Board, outlines the steps required for Coordinating Board staff to submit a recommendation to the Commissioner and the expectation for the Commissioner's review.

Section 7.93, Board Review and Issuance of Provisional Certificate to Operate, outlines the steps required for Board decision regarding a Provisional Certificate to Operate and the outcomes associated with a Board decision.

Section 7.94, Required Notices, Reporting and Record-keeping, establishes requirements limitations and requirements for institutions operating under a Provisional Certificate to Operate.

Section 7.95, Representing Transferability of Credit with Provisional Certificate to Operate, establishes limitations on how institutions may enroll students in courses designed to transfer to another institution.

Section 7.96, Amendments to a Provisional Certificate to Operate, establishes limitations and requirements for submitting an amendment to a Provisional Certificate to Operate.

Section 7.97, Renewal of a Provisional Certificate to Operate, outlines the steps required for a Board decision regarding an application to renew a Provisional Certificate to Operate.

Section 7.98, Right to Request Hearing, summarizes the right of the institution to appeal a decision regarding a Provisional Certificate to Operate.

Subchapter G. Requirements for Discontinuation or Revocation of a Provisional Certificate to Operate (§§7.108 - 7.113)

Section 7.108, Purpose and Applicability, establishes requirements for discontinuation or revocation of a Provisional Certificate to Operate.

Section 7.109, Discontinuing a Degree Program While Under a Provisional Certificate to Operate, outlines the steps an institution must take when discontinuing a degree program.

Section 7.110, Revocation of Provisional Certificate to Operate, outlines the circumstances under which the Board may revoke a Provisional Certificate to Operate and the requirements of that institution after revocation.

Section 7.111, Cessation of Operation and Teach-Out Agreements after Revocation of a Provisional Certificate to Operate, outlines the steps an institution must take once it receives notice of Board revocation.

Section 7.112, Requirements for Teach-Out Agreements, establishes requirements that institutions must follow when developing teach-out agreements during closure, revocation or discontinuation.

Section 7.113, Reapplication after Revocation of Provisional Certificate to Operate, outlines the limitations for an institution to reapply for a Provisional Certificate to Operate after revocation, and defines the additional review criteria an institution must meet.

Subchapter H. Review and Use of Degrees from Institutions Not Eligible for a Provisional Certificate to Operate (§§7.121 - 7.125)

Section 7.121, Entities Which May Have Degrees Eligible for Review, lists qualifications of entities for which the Coordinating Board may undertake a review of its degrees.

Section 7.122, Persons Who May Request Review of a Degree from an Institution Which is Not Eligible for a Provisional Certificate to Operate a Non-accredited institution, allows a person who holds a degree from a described entity to request review of the person's degree.

Section 7.123, Review of a Degree from an Entity Which is Not Eligible for a Provisional Certificate to Operate, describes the standards for determining equivalency of a degree.

Section 7.124, Recommendation to the Commissioner, provides the process for submitting the reviewer report to the Commissioner for final determination of equivalency of the degree.

Section 7.125, Fees for Review of a Degree, states the basis for the fee.

Subchapter I. Change of Ownership or Control and Other Substantive Changes (§§7.135 - 7.137)

Section 7.135, Change in Ownership or Control, provides the activities considered changes of ownership, changes of control, and other substantive changes administered under this subchapter.

Section 7.136, Requirements to Maintain Authorization to Operate during a Change in Ownership, provides requirements that must be following to maintain a Certificate of Authorization or Provisional Certificate to Operate.

Section 7.137, Other Substantive Changes, lists notifications that are expected from the private postsecondary educational institution's Single Point of Contact throughout the period when an institution holds a Certificate of Authorization or a Provisional Certificate to Operate.

Subchapter J. Closure of a Private Postsecondary Educational Institution (§§7.148 - 7.151)

Section 7.148, Notification of Closure, requires prior notification to the Coordinating Board prior to closure or immediately if the closure is unexpected.

Section 7.149, Withdrawal of Authority to Operate Upon Closure, verifies that authorization to operate ends upon closure. The section allows the Assistant Commissioner who has oversight of the closing institution to approve closure plans and teach-out agreements.

Section 7.150, Requirements for a Closing Private Postsecondary Educational Institution to Protect Students, ensures the students of a closing institution can complete their education.

Section 7.151, Limited Authorization to Teach Out Students of a Closed Private Postsecondary Education Institution, provides parameters under which limited authorization may be given to teach out students when the teach-out institution is not currently authorized to offer the closing degree programs.

Subchapter K. Administrative Injunctions, Limitations, and Penalties (§§7.163 - 7.169)

Section 7.163, Prohibited Conduct, limits the activities a person or institution may engage in unless authorized by the Coordinating Board.

Section 7,164, Publication of Authorized and Unauthorized Degrees, describes the information the Board will publish regarding accreditation and authorization of private postsecondary educational institutions.

Section 7.165, Limitations on Educational Institutions, includes specific limitations for activities on federal land and the use of Associate of Occupational Studies degrees.

Section 7,166, Criminal Offenses, cites Texas Code under which criminal offenses may be found.

Section 7.167, Administrative and Civil Penalties, details penalties the Commissioner may impose and request to the Texas Attorney General to initiate civil proceedings.

Section 7.168, Other Legal Remedies, cites Texas Code under which other legal remedies may be pursued and references of violations to the Texas Attorney General.

Section 7.169, Process for Notice and Appeal of Penalty Assessment, provides the process to notify a person or institution of any violation, penalty, or right to a hearing. The section provides the deadlines for responses.

Subchapter L. Student Data and Protections (§§7.180 - 7.185)

Section 7.180, Student Data Reporting, requires institutions to submit annual student data to the Coordinating Board.

Section 7.181, Academic Records Maintenance and Protection, states the requirements for maintaining student academic

records, the format of such records, and protection of student personally identifiable information.

Section 7.182, Academic Records Management Upon Private Postsecondary Institution Closure, provides the timeline for securing and submitting student records upon closure. The section provides requirements for transferring student records to third parties and the ability for the Commissioner to seek court authority to take possession of such records.

Section 7.183, Closed Institution Records Repository of Last Resort, identifies the Coordinating Board as the repository of last resort, documentation that will be provided to students of closed institutions, and the ability to utilize a third party as the custodian of record to fulfill transcript requests.

Section 7.184, Financial Protections for Student Tuition and Fees, sets forth the financial protections that must be maintained to ensure students, parents or guardians, or another entity paying tuition and fees on behalf of students, are reimbursed for unearned tuition and fees.

Section 7.185, Student Tuition and Fee Recovery Process, provides the process to recover unearned tuition and fees. The section defines a qualifying event which triggers the process.

Subchapter M. Distance Education Approval for Degree-granting Educational Institutions (§§7.196 - 7.199)

Section 7.196, Applicability of Distance Education Exemption to Institution Outside of Texas, identifies the institutions which may be exempt when offering distance education to Texas residents.

Section 7.197, Distance Education Exemption for Institution Outside of Texas, provides the scope of the exemption and limitations to the exemption.

Section 7.198, Inapplicability of Distance Education Exemption, identifies institutions for which the distance education exemption does not apply.

Section 7.199, Principles of Best Practice for Distance Education, lists best practices all institutions offering distance education must follow.

Subchapter N. Participation in the State Authorization Reciprocity Agreement (SARA) (§§7.210 - 7.217)

Section 7.210, Purpose and Applicability, defines the Coordinating Board's role in overseeing private institutions that participate in State Authorization Reciprocity Agreements (SARA).

Section 7.211, Authority, authorizes the Coordinating Board as the SARA State Portal Entity (SPE) to manage the state's and state private institutions' participation in SARA.

Section 7.212, Eligibility Criteria, provides location and accreditation requirements to participate in SARA.

Section 7.213, Admission to SARA, lists application requirements and fees, the review process, and information institutions are required to submit or agree to follow.

Section 7.214, Denial for SARA Participation, describes the denial and appeal process.

Section 7.215, Maintaining SARA Participation Eligibility, provides steps an institution must take to remain eligible to participate in SARA. Institutions may be removed for violation of SARA standards or requirements.

Section 7.216, Complaint Resolution, lists information institutions must include in a complaint resolution policy related to student complaints regarding violation of SARA policy. The section provides the process for Coordinating Board SPE staff to review and resolve appeals of an institution's resolution of a student complaint.

Section 7.217, Out-of-State SARA Participants, states that Coordinating Board SPE staff are the primary point of contact for out-of-state SARA participants. The section provides violations under which the Coordinating Board may take appropriate action against an out-of-state SARA participating institution.

Brandon Griggs, Assistant Commissioner for Academic & Health Affairs, has determined that for each of the first five years the sections are in effect there would be no fiscal implications for state or local governments as a result of enforcing or administering the rules. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rules. There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rules.

There is no impact on small businesses, micro businesses, and rural communities. There is no anticipated impact on local employment.

Brandon Griggs, Assistant Commissioner for Academic & Health Affairs, has also determined that for each year of the first five years the sections are in effect, the public benefit anticipated as a result of administering the sections will be the improved rule clarity and navigability through consolidation of rules for similar programs. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

Government Growth Impact Statement

(1) the rules will not create or eliminate a government program;

(2) implementation of the rules will not require the creation or elimination of employee positions;

(3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;

(4) the rules will not require an increase or decrease in fees paid to the agency;

(5) the rules will create a new rule;

(6) the rules will not limit an existing rule;

(7) the rules will not change the number of individuals subject to the rules; and

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

Comments on the proposed rules or information related to the cost, benefit, or effect of the proposed rules, including any applicable data, research or analysis, may be submitted to Daniel R. Pérez, Associate Commissioner for Academic & Workforce Initiatives, P.O. Box 12788, Austin, Texas 78711-2788, or via email at AHAComments@highered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

**19 TAC §§7.1 - 7.3**

The new sections are proposed under Texas Education Code, Chapter 61, Subchapter G (§§61.301 - 61.321), which governs the regulation of private postsecondary educational institutions and public out-of-state postsecondary institutions operating in Texas. This includes Subchapter B (§61.026), related to advisory committees, Subchapter G (§61.314), relating to an advi-

sory council on private postsecondary educational institutions, Subchapter H (§§61.401 - 61.405), relating to the regulation of academic terminology, and Texas Education Code, Chapter 132, which pertains to career schools and colleges.

The proposed new sections affect Texas Administrative Code, Title 19, Part 1, Chapter 7.

*§7.1. Authority and Purpose.*

(a) Authority. This Chapter is adopted under the authority of the Texas Education Code, Chapter 61, Subchapter G (§§61.301 - 61.321), which governs the regulation of private postsecondary educational institutions and public out-of-state postsecondary institutions operating in Texas. These rules also reference Texas Education Code, Subchapter B (§61.026), related to advisory committees, Texas Education Code, Subchapter G (§61.314), relating to an advisory council on private postsecondary educational institutions, Texas Education Code, Subchapter H (§§61.401 - 61.405), relating to the regulation of academic terminology, and Texas Education Code, Chapter 132, which pertains to career schools and colleges. The Board is authorized to enforce these provisions to ensure the integrity of degree offerings and the appropriate use of academic terms within the state.

(b) Purpose. This chapter establishes the standards and procedures by which private postsecondary institutions and public out-of-state postsecondary institutions may be authorized by the Board to offer degree programs, award academic credit, employ agents, and use protected academic terms within the state of Texas. It also defines prohibited practices and outlines the sanctions that may be imposed for violations of applicable statutes and Board rules, in accordance with the Texas Education Code, Chapter 61, Subchapter G.

*§7.2. Definitions.*

(a) Except as provided or modified below, the definitions used in Texas Education Code, §61.302, shall apply to this chapter.

(b) The following terms are used throughout this chapter and shall have the meanings assigned below, unless the context clearly indicates otherwise:

(1) Academic Record--Information maintained by an institution that meets the definition in Texas Education Code, §61.3025.

(2) Accreditation--Formal recognition granted to an institution by a U.S.-based accrediting agency recognized by the U.S. Department of Education for meeting established academic and operational standards.

(3) Accrediting Agency--An organization recognized by the U.S. Department of Education to evaluate and accredit postsecondary institutions. A Board-recognized accrediting agency is one whose standards have been reviewed and deemed sufficiently rigorous to qualify institutions for exemptions under this chapter.

(4) Agent--A person employed by or representing a private postsecondary educational institution who solicits students for enrollment at the institution, including solicitation for payment to the institution for registration or enrollment.

(5) Associate Degree Program--A structured set of courses leading to an associate degree, either for direct employment or transfer to a bachelor's program.

(6) Board--The governing body known as the Texas Higher Education Coordinating Board.

(7) Career School or College--A for-profit or nonprofit entity operating in Texas that offers instruction for career training or personal development, unless exempt under Texas Education Code, §132.002. Career school or college may include an entity licensed by the Texas Workforce Commission to offer non-degrees which is also authorized under Subchapters D or G of this chapter (relating to Certificate of Agent Registration, and Requirements for Discontinuation or Revocation of a Provisional Certificate to Operate, respectively) to offer degrees.

(8) Certificate of Approval--Approval or licensure issued by the Texas Workforce Commission for a career school or college to operate and offer instruction in Texas.

(9) Certificate of Authority--Statutory term under Texas Education Code, §61.304, used for temporary authorization granted by the Board to a non-exempt institution which does not have Coordinating Board-recognized institutional accreditation. This chapter refers to a Certificate of Authority as a Provisional Certificate to Operate.

(10) Certificate of Authorization--A type of certificate to operate and grant degrees based on a formal acknowledgment by the Board that an institution qualifies for exemption from certain regulatory requirements under this chapter based on its Coordinating Board-recognized institutional accreditation. It may be:

(A) issued for the duration of the institution's current accreditation term;

(B) conditionally granted for up to fifteen months while a new Texas campus seeks full accreditation and state approval; or

(C) renewed annually for out-of-state institutions conducting experiential learning in Texas.

(11) Certificate of Agent Registration--Authorization issued by the Board for an agent representing a postsecondary institution and soliciting Texas residents for enrollment or payment for enrollment or registration.

(12) Certification Advisory Council--An advisory committee established under Board rules Chapter 1, Subchapter H of this title (relating to Certification Advisory Council), to advise on matters related to postsecondary institutional certification and compliance.

(13) Change of Ownership or Control--A significant transfer of ownership or governance of a postsecondary institution authorized under this chapter, including:

(A) sale or transfer of more than 50% ownership; or

(B) changes in leadership or governing structure of more than 50% management or administrative personnel.

(C) change of ownership or control does not include a transfer to a family member as a result of the retirement or death of the owner if the family member has had at least two years of active management of the postsecondary institution. For purposes of this definition, a member of the owner's family is a parent, sibling, spouse, or child; spouse's parent or sibling; or sibling's or child's spouse.

(14) Classification of Instructional Programs (CIP) Code--A standardized code assigned to a degree program based on its instructional content and intended occupational outcomes, as defined by the U.S. Department of Education National Center for Education Statistics.

(15) Clinical or Practicum Site--An entire facility or location, such as a hospital, business, or school campus. Individual departments, offices clinics, classrooms, or other subdivisions of the facility are not considered the clinical or practicum site.

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

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

(18) Degree--A title or designation (e.g., associate, bachelor's, master's, doctorate) that signifies completion of a recognized academic degree-level program, as defined in Texas Education Code, §61.302, and is approved by accrediting agencies recognized by the Board.

(19) Distance Education--Instruction delivered when the student and instructor are in different physical locations, including, but not limited to online, video-based, or correspondence formats.

(20) Experiential Learning--Learning gained through direct, hands-on experiences outside the classroom, including internships, externships, practicums, clinicals, and fieldwork. "Clinicals" refers specifically to site-based training in health-related programs such as nursing, medicine, and allied health.

(21) Fictitious Degree--A counterfeit, forged, or revoked academic degree.

(22) Fraudulent or Substandard Degree--A degree as defined by Texas Education Code, §61.302, issued by an entity that:

(A) operated in Texas without proper authorization;

(B) operated in another state or country without legal authority or recognized accreditation; or

(C) operated outside the United States and Issued a degree not equivalent to a United States accredited or authorized degree, as determined by the Board under Subchapter G of this chapter.

(23) Full-Time Faculty Member--A person whose:

(A) employment is based upon an official contract, appointment, or agreement with an institution;

(B) principal employment is with that institution;

(C) major assignments are in teaching and research; and

(D) a full-time administrator who teaches classes incidental to administrative duties is not a full-time faculty member.

(24) Institution--A degree-granting postsecondary educational entity.

(25) Licensure--A process of state or other governmental entities that establishes standards of practice and gives legal permission for professional or vocational practice by providing licenses or certifications to individuals who meet those standards.

(26) Licensure Program--A sequence of courses and learning experiences that prepares student for initial licensure.

(27) National Council for State Authorization Reciprocity Agreements (NC-SARA)--A private nonprofit organization which coordinates, in partnership with four regional compacts, the State Authorization Reciprocity Agreement (SARA) implementation and compliance. See the SARA definition in this subchapter.

(28) Out-of-State Public Postsecondary Institution--A public college, university, or similar institution of higher education established and governed by a public body outside Texas that offers or seeks to offer instruction or degrees in Texas. For purposes of this chapter, out-of-state public postsecondary institutions are considered private postsecondary educational institutions subject to the rules of this chapter.

(29) Personally Identifiable Information (PII)--Any data, such as name, address, date of birth, Social Security Number, education records, or other linked identifiers, that can identify a specific student, either alone or when combined with other information.

(30) Physical Presence--A condition met when an institution:

(A) has personnel in Texas conducting educational activities (e.g., teaching, proctoring, supervising experiential learning, or awarding academic credentials);

(B) has personnel in Texas recruiting students; or

(C) maintains a physical location, address, or contact point in Texas.

(D) conditions that are not considered physical presence in the absence of other conditions include:

*(i)* advertising;

*(ii)* the occasional participation in a college/career fair involving multiple institutions or other event similarly limited in scope within Texas; or

*(iii)* teaching distance education courses in which there is no physical contact or same location proximity with Texas residents.

(31) Private Postsecondary Educational Institution--An entity that:

(A) is not a Texas public institution of higher education as defined in Texas Education Code, §61.003;

(B) is either privately owned and operated or controlled by a public body organized outside the boundaries of the State of Texas. For purposes of this chapter, an out-of-state public institution is a private institution;

(C) is incorporated under the laws of Texas, or maintains a place of business in Texas, or has an agent or representative present in Texas, for the purpose of solicitation and enrollment of Texas residents in a degree program or to obtain college-level credit; and

(D) offers or claims to offer a degree program or college-level credit to Texas residents either at a physical location or through electronic means.

(32) Professional Degree--A degree awarded in the fields of medicine (M.D., D.O.), dentistry (D.D.S.), veterinary medicine (D.V.M.), and law (J.D., LL.B.), including recognized equivalents and foreign counterparts.

(33) Program of Study--Any course or grouping of courses which are alleged to entitle a student to a degree or to credits alleged to be applicable to a degree.

(34) Protected Term--Specific academic terms including: "college," "university," "school of medicine," "medical school," "health science center," "school of law," "law school," and "law center," along with their abbreviations, equivalents, and foreign cognates.

(35) Provisional Certificate to Operate/Provisional Authority (Formerly Certificate of Authority)--Temporary authorization granted by the Board to a non-exempt institution to offer degrees or degree-credit courses in Texas while pursuing Board-recognized accreditation.

(36) Reciprocal State Exemption Agreement--A formal agreement between the Board and another state's higher education agency that allows institutions from each state to offer distance education without duplicative oversight.

(37) Sanction--A formal action by an institutional accrediting agency indicating that an institution is not in compliance with accreditation standards. Sanctions may include warnings, probation, or imminent loss of accreditation and are considered violations under this subchapter.

(38) SARA--The State Authorization Reciprocity Agreement, which is an agreement among its member states, districts, and U.S. territories, that establishes policy for interstate distance education among member states.

(39) SARA Member State--A U.S. state, district, or territory that has joined the State Authorization Reciprocity Agreement.

(40) Single Point of Contact--The individual designated by a postsecondary educational institution to serve as the primary liaison with the Board.

(41) Southern Regional Education Board (SREB)--A regional organization that supports education policy and practice in the southern United States. It is one of four regional compacts which are partners with NC-SARA to establish implementation and compliance with SARA.

(42) Substantive Change--A significant modification to an institution's operations, including changes in:

(A) ownership, governance, or location;

(B) accrediting agency or accreditation status;

(C) degree level or program offerings;

(D) institutional name; or

(E) eligibility for federal financial aid based on financial or accreditation status.

(43) U.S. Department of Education--The federal agency responsible for administering federal education policies and regulations, including any successor federal agency to which education policies or regulations are transferred.

(44) Visiting Student--A student enrolled at an out-of-state institution who temporarily takes courses at a Texas institution under a formal agreement between the out-of-state institution and the Texas institution, and for whom credits transfer back to the out-of-state institution.

*§7.3. Non-Oversight of Religious Instruction Degrees.*

An institution that only offers degrees in religious instruction is exempt from the provisions of this chapter.

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

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## SUBCHAPTER B. STANDARDS FOR OPERATION OF POSTSECONDARY EDUCATIONAL INSTITUTIONS

### 19 TAC §§7.13 - 7.25

The new sections are proposed under Texas Education Code, Chapter 61, Subchapter G (§§61.301 - 61.321), which governs the regulation of private postsecondary educational institutions and public out-of-state postsecondary institutions operating in Texas. This includes Subchapter B (§61.026), related to advisory committees, Subchapter G (§61.314), relating to an advisory council on private postsecondary educational institutions, Subchapter H (§§61.401 - 61.405), relating to the regulation of academic terminology, and Texas Education Code, Chapter 132, which pertains to career schools and colleges.

The proposed new sections affect Texas Administrative Code, Title 19, Part 1, Chapter 7.

*§7.13. Purpose and Applicability.*

(a) The standards of this subchapter are designed to safeguard the public interest by ensuring degree granting institutions meet minimum standards, as required by Chapter 61, Subchapter G of the Texas Education Code, until an institution receives accreditation from a Board-recognized accreditor.

(b) These standards apply to all postsecondary educational institutions operating in Texas not accredited by a Board recognized accreditor, which must meet the standards in this subchapter to qualify for a Provisional Certificate to Operate.

(c) Institutions with Board-recognized accreditation are exempt and shall apply for Certification of Authorization as set forth in Subchapter E of this chapter (relating to Authorization of Accredited Institutions).

*§7.14. Standard I - Legal Compliance.*

The institution shall operate in compliance with all applicable federal, state, and local laws, regulations, and ordinances for operation of an institution and business in Texas.

*§7.15. Standard II - Institutional Structure and Administration.*

The institution shall have a governing board, chief academic officer, and administrative structure that supports its mission, ensures accountability, and protects the interests of students, faculty, and staff.

(1) The mission of the institution shall be published and shall define the institution's core purpose and goals, and explain how the offering of its educational programs meets the core purpose and goals.

(2) The governing board shall establish bylaws that guide decision-making and internal governance procedures and requirements for the governing board.

(3) The governing board shall include at least three members who have a minimum of:

(A) three years of experience as higher education administrators; or

(B) five years of experience in administration, management, and governance of business operations related to the core purpose and goals of the institution and its offered degrees.

(C) at least one governing board member shall have at least three years of experience in higher education.

(4) The institution shall have a chief executive officer with the following qualifications:

(A) a graduate degree from an accredited institution; and

(B) at least three years of leadership experience in operations, management or other relevant executive experience.

(C) with governing board approval, an institution may appoint a chief executive officer with a bachelor's degree and exceptional experience in lieu of a graduate degree.

(5) The institution shall have a chief academic officer with the following qualifications:

(A) a doctoral or professional degree from an accredited institution; and

(B) at least two years of leadership experience in curriculum development, accreditation, faculty leadership, and student success.

(C) with governing board approval, an institution may appoint a chief academic officer with a graduate degree and exceptional experience in lieu of a doctoral degree.

(6) The chief academic officer and chief executive officer may serve on the governing board in addition to the three required governing board members.

(7) The administrative structure shall include:

(A) defined and distinct roles and responsibilities for institutional leaders; and

(B) personnel and resources dedicated toward maintaining sufficient administrative capacity to support daily operations.

*§7.16. Standard III - Financial Resources and Records.*

The institution shall have adequate financial resources and financial stability to provide education of good quality and to fulfill its commitments to students.

(1) The institution shall have sufficient reserves, a line of credit, or a surety instrument to ensure that, together with tuition and fees, it can complete its educational obligations to students enrolled in the current term in the event the institution is unable to admit new students.

(2) Surety Instrument.

(A) if an institution elects to use a surety instrument, the surety instrument shall be in an amount no less than the greater of:

*(i)* $25,000; or

*(ii)* an amount equal to or greater than the total cost of providing refunds, including administrative costs associated with processing claims, for a period or term during the applicable academic year in which degrees are offered.

(B) the surety instrument may be drawn upon by the Coordinating Board solely for the benefit of enrolled students.

(3) Institutional financial records shall be maintained in accordance with Generally Accepted Accounting Principles (GAAP) which are set by the Financial Accounting Standards Board (FASB). Nonprofit institutions shall also maintain financial records in accordance with applicable guidelines issued by the National Association of College and University Business Officers (NACUBO).

(4) The institution shall ensure that an independent annual audit is conducted by a certified public accountant and authorized by the governing board. The audit must, at a minimum, determine whether the institution is financially capable of meeting its obligations and continuing operations without risk of liquidation.

(5) The institution shall demonstrate its financial health through positive ratios for:

(A) a primary reserve ratio, calculated as expendable net assets divided by total expenses;

(B) a program viability ratio, calculated as net tuition and fee revenue divided by annual program operating costs; and

(C) an institutional viability ratio, calculated as expendable net assets divided by long-term debt.

*§7.17. Standard IV - Faculty Resources.*

The institution shall have the necessary faculty resources to deliver an education that ensures student success and that is consistent with the objectives of each course and degree program offered.

(1) The institution shall publish and provide faculty with written policies on academic freedom and faculty employment.

(2) The institution shall provide appropriate professional learning and continuing education opportunities for faculty. If the institution delivers online education, it shall provide appropriate training for faculty teaching online courses.

(3) The institution shall employ enough full-time faculty members to ensure program stability and student engagement.

(A) a minimum of one full-time faculty member must be employed per associate or bachelor's program.

(B) a minimum of two full-time faculty members must be employed per graduate program.

(C) an institution may request an exception to faculty size if it can provide evidence that academic quality is maintained.

(4) The institution shall ensure faculty have appropriate professional experience and qualifications for the academic levels and disciplines in which they provide instruction and hold degrees from accredited institutions:

(A) faculty in academic and licensure programs must hold a master's degree with at least 18 graduate credit hours in the teaching discipline.

(B) faculty in career and technical programs must hold an associate degree in the field or have at least three years of relevant full-time experience.

(C) faculty in general education courses must hold a master's degree with 18 graduate credit hours in the discipline.

(D) faculty in graduate programs must hold a doctorate or the highest degree in the field.

(E) an institution may appoint a faculty member with exceptional professional experience in lieu of formal credentials with governing board approval and documented justification.

(F) faculty with exceptional professional experience in lieu of formal credentials shall constitute less than half of the total faculty members.

*§7.18. Standard V - Facilities.*

The institution shall have adequate space, equipment, and instructional materials to provide education of good quality.

(1) Health and safety education shall be offered to students, faculty, and staff, including emergency procedures and responses.

(2) If applicable, student housing owned, maintained, or approved by the institution shall be appropriate, safe, adequate, and in compliance with applicable state and local requirements.

(3) If applicable, equipment and classroom space for hands-on learning, including health care programs, shall be aligned with current industry standards, be well-maintained and functional.

*§7.19. Standard VI - Student Support.*

The institution shall establish student support services that ensure student success during enrollment at the institution and after graduation.

(1) The institution shall have clear and published online admission standards and application evaluation processes.

(A) for undergraduate admission, the institution shall document and verify that students have graduated from high school or completed an equivalent high school equivalency exam.

(B) for graduate admission, the institution shall document and verify that students hold a bachelor's degree from an accredited institution, a Board-authorized institution, or a foreign institution with equivalent credentials evaluated under the criteria in §7.123(a)(2) of this chapter (relating to Review of a Degree from an Entity Which is Not Eligible for a Provisional Certificate to Operate).

(C) the institution may offer remediation for students.

(2) The institution shall have student services that include, at a minimum:

(A) orientation;

(B) advising services that include:

*(i)* course planning;

*(ii)* career guidance and job placement support; and

*(iii)* testing services for students.

(C) financial services that include:

*(i)* tuition and fee payment processes and support; and

*(ii)* if applicable, financial aid and student loan services.

(D) registration and enrollment services; and

(E) academic records services that include student access to transcripts and other academic records.

(3) The institution shall provide secure and permanent maintenance of accurate academic records and transcripts for each student, in accordance with Subchapter L of this chapter (relating to Student Data and Protections).

*§7.20. Standard VII - Student Rights and Responsibilities.*

The institution shall establish, adhere to, and make publicly available, clear policies on student conduct, due process, and grievance procedures, including student grievance procedures.

(1) The institution shall maintain a fair student grievance policy and procedure that at a minimum includes:

(A) types of grievances accepted;

(B) contacts and forms for grievances; and

(C) appeal levels and processes, including a process for appealing to the institution's governing board.

(2) The institution shall establish a process for notifying students of their right to file complaints with applicable government entities as required under state or federal law.

*§7.21. Standard VIII - Curriculum.*

For each degree program proposed, the institution shall have a clearly structured and academically rigorous program that aligns with the institution's mission and learning objectives.

(1) Each degree program shall have an accurate degree title and major that reflects the curriculum and appears on diplomas and transcripts.

(2) Each degree program shall meet minimum degree credit hour requirements:

(A) academic associate degrees: 60 - 66 semester credit hours, designed for transfer, including at least 15 hours of general education.

(B) applied associate degrees: 60 - 72 semester credit hours, designed for workforce entry, including at least 15 hours of general education. Associate of Occupational Studies (AOS) degrees are subject to the limitation in Subchapter K of this chapter (relating to Administrative Injunctions, Limitations, and Penalties).

(C) bachelor's degrees: Minimum of 120 semester credit hours or in alignment with requirements of a Board-recognized accreditor.

(D) master's degrees: 30 - 36 semester credit hours.

(E) doctoral degrees (post-baccalaureate): Minimum of 60 semester credit hours.

(3) General education shall be included in all undergraduate degree programs and meet the following requirements:

(A) associate: Minimum of 15 semester credit hours.

(B) bachelor's: Minimum of 30 semester credit hours.

(C) general education courses shall include educational content in:

*(i)* humanities;

*(ii)* social sciences;

*(iii)* natural sciences;

*(iv)* math;

*(v)* communication; and

*(vi)* digital literacy.

(4) An institution may partner with an accredited institution to deliver general education for a program.

(5) A minimum of 50% of non-general education courses required for a degree shall be taught by the institution.

(6) Remedial and leveling courses shall not count towards degree requirements.

(7) Institutions may award credit for learning outside traditional academic settings using a consistent, faculty-reviewed process. Recognized exams may be used.

(8) Credit completed outside a traditional academic setting shall be limited to:

(A) no more than 50% of undergraduate credit shall come from non-collegiate sources, such as military training, non-credit workplace training or internships, non-credit workshops, continuing education, or professional certifications.

(B) no graduate credit may be awarded for non-collegiate learning.

(C) life experience alone shall not qualify for credit.

(9) For professional programs that require field-based experience, the institution shall ensure that a sufficient number of placements (such as clinicals or clerkships) are available for the projected enrollments of the degree plan.

*§7.22. Standard IX - Learning Resources.*

An institution shall provide access for faculty and students to current, organized, inventoried, and discipline-appropriate learning materials, instructional support, online learning resources and policies, and learning management systems.

(1) The institution shall provide appropriate training for faculty and students for all learning resources and learning management systems.

(2) The institution shall ensure regular and substantive interaction between faculty and students in courses and programs.

*§7.23. Standard X - Learning Outcomes and Program Assessment.*

An institution shall have defined and appropriate learning outcomes and methods for assessing success in its degree programs. The institution shall be able to demonstrate that learning outcomes are being achieved by students.

(1) Learning outcomes shall be measurable and aligned to the program purpose.

(2) Program assessment shall include evaluation of mission alignment, labor market need, curriculum, enrollment, placement, and faculty qualifications.

(3) For licensure programs, program assessment shall include, but not be limited to, licensing exam pass rates which meet standards set by licensing agencies.

(4) An institution shall establish defined labor market need for degree programs and include consideration of existing program capacity in Texas.

*§7.24. Standard XI - Institutional Assessment.*

The institution shall ensure ongoing institutional assessment to improve academic programs, administration, finances, student services, facilities, and other operations. The institutional assessment shall be appropriately aligned with its plan and timeline for institutional accreditation by a Board-recognized accrediting agency.

*§7.25. Standard XII - Policies, Procedures and Publications.*

The institution shall maintain appropriate, publicly available, up-to-date policies, procedures, and publications for the fair and transparent operation of the institution.

(1) The institution shall not engage in false, misleading, or deceptive practices in advertising or recruitment.

(2) The institution shall maintain a published and fair cancellation and refund policy with internal processing procedures.

(3) An annual academic catalog shall be published and available to students. The catalog shall include, at a minimum:

(A) mission;

(B) governance structure, including a statement of legal control with the names of trustees, directors, and officers of the governing board;

(C) admissions policies;

(D) current academic programs information, including academic calendar; grading system and satisfactory academic progress; transfer policies; and any special requirements or limitations on programs offered in Texas;

(E) faculty and administrator credentials;

(F) scholarships and other available financial aid;

(G) descriptions of available student services;

(H) policies related to appropriate use of technology; and

(I) required disclosures under the federal Higher Education Act (34 CFR 668.43), including tuition and fees; cancellation and refund policies; licensure information; and accreditation.

(4) The institution shall publish graduation rates and if applicable, job placement rates by program, and disclose these rates to students.

(5) The institution shall issue a diploma and transcript to each student in good standing upon program completion.

(6) The institution shall maintain archived catalogs for alumni and returning students as required by Subchapter L of this chapter (relating to Student Data and Protections).

(7) The institution shall publish, and share with all employees and students, policies and procedures regarding use of technology at the institution.

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

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## SUBCHAPTER C. RECOGNITION OF INSTITUTIONAL ACCREDITING AGENCIES

### 19 TAC §§7.36 - 7.39

The new sections are proposed under Texas Education Code, Chapter 61, Subchapter G (§§61.301 - 61.321), which governs the regulation of private postsecondary educational institutions and public out-of-state postsecondary institutions operating in Texas. This includes Subchapter B (§61.026), related to advisory committees, Subchapter G (§61.314), relating to an advisory council on private postsecondary educational institutions, Subchapter H (§§61.401 - 61.405), relating to the regulation of academic terminology, and Texas Education Code, Chapter 132, which pertains to career schools and colleges.

The proposed new sections affect Texas Administrative Code, Title 19, Part 1, Chapter 7.

*§7.36. Eligibility Criteria for Accrediting Agency Recognition.*

(a) The Board may recognize institutional accrediting agencies that meet its eligibility criteria and demonstrate a commitment to academic quality and student success. To be eligible, an accrediting agency must meet the following requirements:

(1) The accrediting agency shall be recognized by the U.S. Department of Education as authorized to accredit institutions offering associate degrees or higher. The accrediting agency shall clearly define the scope of its recognized accreditation.

(2) The accrediting agency shall have as a primary activity the accreditation of institutions legally authorized to award postsecondary degrees in the United States. Evidence demonstrating sufficient degree-granting authorization may be shown by either:

(A) a majority of the institutions accredited by the accrediting agency are legally authorized to award postsecondary degrees; or

(B) at least 50 institutions accredited by the accrediting agency are authorized to award postsecondary degrees.

(3) The accrediting agency must comply with applicable state laws and require accredited institutions to:

(A) comply with all applicable state and local laws; and

(B) clearly disclose the institution's accreditation status to the public.

(b) Accrediting agencies currently recognized by the Board to accredit postsecondary educational institutions with locations in Texas are listed on the Coordinating Board's website.

*§7.37. Application for Accrediting Agency Recognition.*

(a) An accrediting agency may apply for Board recognition by providing documentation of meeting the eligibility criteria found in §7.36 of this subchapter (relating to Eligibility Criteria for Accrediting Agency Recognition).

(b) The following supporting information shall be submitted in a manner prescribed by and on a form provided by the Coordinating Board:

(1) Verification that the accrediting agency is applying for Board recognition that matches its recognition by the U.S. Department of Education. As documentation of U.S. Department of Education recognition, the accrediting agency shall provide written proof of the scope of current recognition.

(2) Fields of study authorized for its accredited postsecondary institutions using two-digit CIP codes.

(3) All degree levels authorized for its accredited postsecondary institutions.

(4) Certification of compliance with §7.165 of this chapter (relating to Limitations on Educational Institutions).

(5) A current list of Texas postsecondary educational institutions accredited by the accrediting agency.

(6) If the accrediting agency accredits both institutions and programs, it shall provide documentation of adequate policies, procedures, and staff to evaluate institutional quality.

(7) Evidence that the accrediting agency's ownership and governance are independent and serve the public interest, including:

(A) a list of the accrediting agency's board of directors showing:

*(i)* independence from ownership or financial interest in the agency;

*(ii)* representation from diverse public interest groups; and

*(iii)* term limits or appointment processes.

(B) the accrediting agency's bylaws or charter that include:

*(i)* the mission and values;

*(ii)* decision-making processes; and

*(iii)* conflict of interest policies.

(8) The accrediting agency's standards or criteria for initial and ongoing reviews of accreditation, including, but not limited to:

(A) the accrediting agency's policy on public disclosure of accreditation information;

(B) the accrediting agency's policy for appealing accreditation decisions; and

(C) evidence that its standards for accredited institutions align with the Standards for Operation in Subchapter B of this chapter (relating to Standards for Operation of Postsecondary Educational Institutions).

(9) The accrediting agency's procedures for on-site review of institutions applying for initial accreditation or seeking to renew its accreditation, including:

(A) the accrediting agency's requirement of at least three qualified team members per initial accreditation or renewal visit, no conflicts of interest for the team members, and collective expertise to evaluate all relevant standards.

(B) smaller teams may be used for other types of visits, such as interim or new program visits.

(10) A list of team members from its five most recent on-site reviews, including names, employers, titles, and assigned standards.

(11) Documentation that the accrediting agency has the resources to fulfill its responsibilities as an institutional accreditor. The accrediting agency must provide:

(A) the number of institutional site visits completed in the 12 months preceding its application for Board recognition, including identification of staff who participated in the site visits;

(B) a current assets-to-liabilities ratio of at least 1.2; and

(C) a schedule of accreditation fees and the basis for calculating the fees.

(12) Documentation that the accrediting agency's accreditation decisions are fair, evidence-based, and consistently applied. The accrediting agency must provide:

(A) as part of the institutional site visit list in paragraph (11)(A) of this subsection, the final accreditation decision to accredit or not accredit and the basis for the decision;

(B) if using an advisory body for accreditation decisions, description of its structure and role. If not, explain how accreditation decisions are validated; and

(C) a self-evaluation or equivalent process to promote continuous improvement.

*§7.38. Maintenance of Accrediting Agency Recognition.*

To maintain recognition by the Board, an accrediting agency shall:

(1) Maintain U.S. Department of Education recognition.

(2) Provide written evidence of any changes to the scope of recognition.

(3) If the scope of U.S. Department of Education recognition expands, seek Board approval before accrediting Texas postsecondary educational institutions or approving degree programs offered in Texas under the expanded scope of recognition.

(4) Notify the Coordinating Board whenever its federal re-recognition process begins and submit a renewal application to the Board each time the accrediting agency applies for continued U.S. Department of Education recognition. Applications shall include all information required for initial eligibility and recognition.

(5) Respond to Coordinating Board requests within ten business days.

(6) Notify the Coordinating Board within ten business days of any changes in accreditation of Texas postsecondary institutions, including additional accredited institutions, closure of accredited institutions, loss or voluntary withdrawal of accreditation, and degrees programs approved, denied, ended, or revised.

(7) Notify the Coordinating Board within ten business days of any official actions taken in response to complaints involving a Texas institution, including outcomes.

(8) Require Texas institutions to report to the Coordinating Board annually:

(A) the number of degrees awarded by level; and

(B) fall enrollment figures.

(9) Provide the Coordinating Board notification of changes to accreditation standards within ten business days.

(10) Conduct on-site reviews of accredited institutions at least every ten years.

(11) Invite the Coordinating Board to participate in Texas on-site reviews at least ten business days in advance, at no cost to the Coordinating Board or institution.

*§7.39. Denial or Withdrawal of Board-Recognition.*

(a) Recognition of the accrediting agency remains in effect unless withdrawn by the Board. Noncompliance with any requirement, including failure to respond to information requests, may lead to withdrawal.

(b) The Coordinating Board will review the accrediting agency's renewal application during its federal re-recognition process to determine if recognition by the Board should continue or be withdrawn.

(c) The Coordinating Board may request a review at any time for good cause, including, but not limited to:

(1) Student or institutional complaints;

(2) Concerns raised by federal or state agencies; or

(3) Allegations or evidence of noncompliance with state law.

(d) The Coordinating Board may consider information from third parties when evaluating an accrediting agency's commitment to quality.

(e) All decisions to deny or withdraw recognition will be made through a vote of the Board.

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## SUBCHAPTER D. CERTIFICATE OF AGENT REGISTRATION

### 19 TAC §§7.50 - 7.53

The new sections are proposed under Texas Education Code, Chapter 61, Subchapter G (§§61.301 - 61.321), which governs the regulation of private postsecondary educational institutions and public out-of-state postsecondary institutions operating in Texas. This includes Subchapter B (§61.026), related to advisory committees, Subchapter G (§61.314), relating to an advisory council on private postsecondary educational institutions, Subchapter H (§§61.401 - 61.405), relating to the regulation of academic terminology, and Texas Education Code, Chapter 132, which pertains to career schools and colleges.

The proposed new sections affect Texas Administrative Code, Title 19, Part 1, Chapter 7.

*§7.50. Activities Requiring a Certificate of Agent Registration.*

(a) An agent shall apply for a Certificate of Agent Registration with the Coordinating Board prior to solicitation of Texas residents on behalf of a private postsecondary educational institution for enrollment or payment for enrollment or registration. This includes agents soliciting Texas residents from a physical location in Texas or from a location outside the state of Texas.

(b) An individual working on behalf of a private postsecondary institution is not required to apply for a Certificate of Agent Registration if they meet the following conditions:

(1) The individual is part of a college/career fair involving multiple institutions or other events in Texas where information is provided to all attendees;

(2) The individual is employed by a private postsecondary institution which operates under a Certificate of Authorization;

(3) The individual's activities fall within a State Authorization Reciprocity Agreement as defined in Subchapter N of this chapter (relating to Participation in the State Authorization Reciprocity Agreement (SARA)); or

(4) The individual provides an educational service as a faculty member, tutor, or preceptor, or performs other teaching duties for a private postsecondary educational institution.

(c) An agent that fails to apply for registration under the requirements of subsection (a) of this section, is subject to administrative and civil penalties under Texas Education Code, 61.316, and §7.167 of this chapter (relating to Administrative and Civil Penalties).

*§7.51. Required Application for a Certificate of Agent Registration.*

(a) An agent shall apply for a Certificate of Agent Registration with the Coordinating Board under the provisions of §7.50 of this subchapter (relating to Activities Requiring a Certificate of Agent Registration).

(b) An agent shall apply using the application available on the Coordinating Board website. The application shall include:

(1) Name and contact information for the agent;

(2) Name and contact information for the private postsecondary educational institution proposed for representation;

(3) The agent's educational background;

(4) The agent's employment history as an agent for postsecondary educational institutions;

(5) Information regarding citations, arrests, charges, or convictions for fraud, deceit, misrepresentation, or forgery;

(6) Information regarding withdrawal or denials of an application or license to act as an agent for a postsecondary educational institution;

(7) A notarized affidavit of fair representation;

(8) A notarized certification of institutional affiliation signed by the postsecondary educational institution's Chief Operating Officer, or similar leadership role;

(9) A certification, signed by the agent, that the information contained in the application is complete and accurate; and

(10) The required registration fee published on the Coordinating Board's website.

(c) If the Coordinating Board approves an application for a Certificate of Agent Registration, the Coordinating Board shall provide the certificate to the agent and the affiliated private postsecondary educational institution.

(d) A Certificate of Agent Registration is valid for five years.

(e) If the Coordinating Board denies an application for Certificate of Agent Registration, the Coordinating Board shall provide written notice and the reasons for denial to the agent and the affiliated private postsecondary educational institution.

*§7.52. Reapplication for a Certificate of Agent Registration.*

(a) An agent may reapply for agent registration 60 to 120 days before the five-year registration period expires.

(b) To reapply for agent registration, an agent shall include the required documentation and Coordinating Board fee under §7.51 of this subchapter (relating to Required Application for a Certificate of Agent Registration).

*§7.53. Revocation of Certificate of Agent Registration.*

(a) The Coordinating Board may revoke a Certificate of Agent Registration under the following conditions:

(1) The private postsecondary educational institution the agent represents is no longer legally operating in Texas;

(2) The agent made false, deceptive, or misleading statements while recruiting students;

(3) The agent violated any administrative rule under this chapter; or

(4) The agent violated any state law.

(b) Upon revocation, the Coordinating Board shall provide written notice to the agent and the affiliated private postsecondary educational institution with the effective date and reasons for revocation.

(c) A private postsecondary educational institution that becomes aware of agent violations or misconduct under subsection (a)(1) - (4) of this section, shall within three business days:

(1) Notify the Coordinating Board of the agent violations;

(2) Revoke the agent's authority to represent the institution in Texas;

(3) If applicable, notify any media outlets used by the agent and correct any false, deceptive or misleading statements; and

(4) If applicable, notify all affected students and correct any false, deceptive or misleading statements.

(d) Failure to take the actions set forth in subsection (c) of this section may result in Administrative and Civil Penalties as set forth in §7.167 of this chapter (relating to Administrative and Civil Penalties).

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

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## SUBCHAPTER E. AUTHORIZATION OF ACCREDITED INSTITUTIONS

### 19 TAC §§7.65 - 7.74

The new sections are proposed under Texas Education Code, Chapter 61, Subchapter G (§§61.301 - 61.321), which governs the regulation of private postsecondary educational institutions and public out-of-state postsecondary institutions operating in Texas. This includes Subchapter B (§61.026), related to advisory committees, Subchapter G (§61.314), relating to an advisory council on private postsecondary educational institutions, Subchapter H (§§61.401 - 61.405), relating to the regulation of academic terminology, and Texas Education Code, Chapter 132, which pertains to career schools and colleges.

The proposed new sections affect Texas Administrative Code, Title 19, Part 1, Chapter 7.

*§7.65. Requirement to Apply for Accredited Institution Authorization.*

(a) An institution with Board-recognized accreditation shall apply for authorization to offer degrees or courses leading to degrees in Texas if:

(1) The institution does not meet the definition of an "institution of higher education" under Texas Education Code, §61.003, or the definition of a "private or independent institution of higher education" under Texas Education Code, §61.003; and

(2) The institution meets one of the following:

(A) has a physical location within Texas from which it will offer degrees or courses leading to degrees;

(B) the institution is an out-of-state institution and will offer experiential learning at Texas-based sites; or

(C) the institution is an out-of-state institution offering degrees and courses leading to degrees to Texas residents and will trigger physical presence as defined in Subchapter A of this chapter (relating to General Provisions), because the institution does not participate in a State Authorization Reciprocity Agreement as defined under Subchapter N of this chapter (relating to Participation in the State Autho-

rization Reciprocity Agreement (SARA)), or is operating outside the policies of such an agreement.

(b) An institution which is otherwise eligible to apply for authorization to offer degrees in Texas will not be authorized by the Board to grant a professional degree, or represent that credits earned in Texas apply toward a professional degree, unless the institution agrees to limit its experiential learning to the same limitations placed on out-of-state SARA institutions under §7.217 of this chapter (relating to Out-of-State SARA Participants).

(c) A postsecondary education institution without Board-recognized accreditation is not eligible for a Certificate of Authorization.

*§7.66. Application for a Certificate of Authorization.*

(a) An eligible institution may apply for a Certificate of Authorization to offer degrees or courses leading to degrees in Texas.

(1) If an eligible institution has multiple physical locations in Texas, each location shall apply for a Certificate of Authorization.

(2) If an eligible out-of-state institution is applying based on offering experiential learning in Texas, the application shall be made by the institution, not each experiential learning site.

(b) An application form shall be made available on the Coordinating Board's website.

(c) The application shall include:

(1) The institution name as designated in its accrediting agency's records.

(2) The physical address of the institution in Texas. If the institution is only offering experiential learning in Texas, it must provide the address of the out-of-state institution offering experiential learning, experiential learning site addresses in Texas, number of students at each site, and the start and end dates of the experiential learning at each site.

(3) Identification of the chief administrative officer and a single point of contact as defined under Subchapter A of this chapter (relating to General Provisions). If the institution is only offering experiential learning in Texas, it must identify the site supervisor(s) at any experiential learning site.

(4) Identification of other Texas private postsecondary educational institutions owned or operated by the owners or administrators of the institution which have closed, including the date of closure and reason for closure.

(5) A certificate of approval or exemption under Texas Education Code, Chapter 132, from the Texas Workforce Commission.

(6) Documentation of the institution's current grant of accreditation including:

(A) identification of the institution's Board-recognized accreditor;

(B) beginning and end dates of current grant of accreditation;

(C) current negative or adverse actions by the accreditor which do not result in sanctions as defined in Subchapter A of this chapter, including corrective actions taken to address the negative or adverse action.

(D) an institution which is under sanctions by its institutional accreditor may not apply for a Certificate of Authorization.

(7) If the institution is accredited but applying for approval of a new location in Texas, and the Texas Workforce Commission or the institution's Board-recognized accreditor requires Board approval before taking final action, documentation from the Texas Workforce Commission or accreditor acknowledging that a decision on adding the new location can be made within 12 months of the date of the Certificate of Authorization issuance.

(8) A list of degrees approved by its Board-recognized accreditor, including degree level, program name, and CIP code.

(9) Documentation of disclosures to students if a degree program does not lead to licensure or exam eligibility in Texas.

(10) Acknowledgement of compliance with the following requirements:

(A) student complaint procedures under Chapter 1, Subchapter E of this title (relating to Student Complaint Procedure);

(B) continuing compliance with accreditor's standards for operation of institutions;

(C) annual compliance review reporting under this subchapter;

(D) substantive change reporting under Subchapter I of this chapter (relating to Change of Ownership or Control and Other Substantive Changes); and

(E) compliance with student data reporting, and academic records maintenance in Subchapter L of this chapter (relating to Student Data and Protections).

(11) Documentation and date of the most recently published U.S. Department of Education composite score. If the composite score is below 1.5, the institution must include documentation of actions taken to improve the score.

(12) Documentation of cash reserves, credit lines, or surety instruments sufficient to cover current-term obligations to students if the institution ceases operations, showing compliance with financial protections for student tuition and fees under Subchapter L of this chapter.

*§7.67. Board Review and Issuance of Certificate of Authorization.*

(a) Upon receipt of a complete application for a Certificate of Authorization, the Coordinating Board shall:

(1) Verify the institution's accreditation status and submitted information;

(2) Confirm financial stability; and

(3) If applicable, review corrective actions taken to remain in compliance with its Board-recognized accreditor.

(b) If the private postsecondary educational institution is not under sanctions by its accreditor and meets all requirements, the Board will issue a Certificate of Authorization to:

(1) Offer accredited degrees or degree-related courses at a location in Texas; or

(2) Conduct experiential learning in Texas required for the institution's accredited degree programs.

(c) A Certificate of Authorization shall identify:

(1) The authorized institution's name and address;

(2) The Board-recognized accrediting agency which has authorized the institution;

(3) The degree levels authorized by the accrediting agency and approved to be offered in Texas by the Board; and

(4) The effective and expiration dates.

(d) The Coordinating Board has discretion to conduct a site visit if warranted by facts disclosed in the application for a Certificate of Authorization or in the annual review process.

*§7.68. Annual Compliance Review of Certificates of Authorization.*

(a) A Certificate of Authorization is reviewed annually to ensure continued compliance with:

(1) Accreditor and state authorization standards;

(2) Student complaint procedures;

(3) Financial stability; and

(4) Accurate public representation.

(b) An institution operating under a Certificate of Authorization shall submit an annual compliance report on a schedule based on its name.

(1) Institutions with names starting "A" through "O" must submit a report by January 15 of each calendar year. The reports are reviewed at the July Board meeting.

(2) Institutions with names starting "P" through "Z" must submit a report by July 15 of each calendar year. The reports are reviewed at the January Board meeting.

(3) Institutions newly authorized within six months of the deadline to submit an annual report may defer reporting to the next calendar year cycle.

(c) A report template shall be made available via the Coordinating Board's website. The institution must attest to compliance with all applicable rules and provide documentation of continued compliance for:

(1) Accreditor and state authorization. Documentation to support the institution's compliance must include:

(A) documentation from its Board-recognized accreditor of any changes in status, programs, ownership, name, or location within the past year;

(B) documentation of current Texas Workforce Commission certificate of approval or exemption;

(C) an updated list of degree programs offered at the postsecondary institution. If authorization is based on experiential learning, an updated list of experiential learning locations with number of students at each learning location; and

(D) identification of the current Single Point of Contact.

(2) Student complaint procedures. Documentation to support the institution's compliance must include:

(A) links to online student complaint procedures or forms; and

(B) a summary of complaints from Texas students within the past 12 months, including whether resolved or pending.

(3) Financial stability. Documentation to support the institution's compliance must include:

(A) an audited financial statement prepared within the last 12 months by an independent CPA, following GAAP;

(B) the institution's last-published federal financial composite score and supporting documentation of the score calculation;

(C) if applicable, U.S. Department of Education documentation of heightened cash monitoring or changes affecting Title IV eligibility and the institution's documentation, as submitted to the U.S. Department of Education, of its plan to meet requirements that would remove the heightened cash monitoring requirement; and

(D) updates or changes to reserves, credit lines, or surety instruments sufficient to meet current-term obligations if the institution ceases operations.

(4) Accurate public representation. Documentation to support the institution's compliance must include:

(A) certification that all advertising is accurate and fair, including disclosure of any program limitations related to licensure or practice in Texas;

(B) certification that the institution will retain Texas-based advertising for five years and provide it upon request;

(C) certification that the institution has complied with §7.181 of this chapter (relating to Academic Records Maintenance and Protection), regarding accessibility of student transcripts for access by students and the Coordinating Board; and

(D) a copy of or link to the current academic catalog with identification of information by page or link for all required catalog components as found in §7.25 of this chapter (relating to Standard XII- Policies, Procedures and Publications).

*§7.69. Changes During Operation under a Certificate of Authorization.*

(a) A private postsecondary educational institution operating under a Certificate of Authorization must notify the Board within 30 days of changes to its Board-recognized accreditor approvals for its degree-levels or programs. This information and documentation must be submitted through a form provided on the Coordinating Board's website.

(b) A private postsecondary educational institution must notify the Board within 30 days of a change to its Single Point of Contact.

(c) If applicable, upon approval by the Coordinating Board, the institution's program inventory will be updated or a revised Certificate of Authorization issued to reflect any reported change.

*§7.70. Certificate of Authorization Expiration and Renewal.*

(a) A Certificate of Authorization issued for a physical location in Texas approved by its Board-recognized accreditor expires at the end of the postsecondary educational institution's current accreditation term.

(1) The Certificate of Authorization may be renewed by submitting documentation of a new grant of accreditation by the institution's Board-recognized accreditor.

(A) the institution shall submit documentation of a new grant of accreditation 30 to 90 days before the expiration date of its current Certificate of Authorization.

(B) institutions whose Board-recognized accreditor will not have completed the accreditor's process for renewal of accreditation at the time the Certificate of Authorization expires must submit, 30 to 90 days before the expiration date, documentation from the accreditor that its grant of accreditation continues during the accreditation review process.

(C) upon receipt by the Coordinating Board of documentation that the grant of accreditation continues during the accreditation review process, the Certificate of Authorization will continue until

the institutional accreditor makes a final determination on renewal of the grant of accreditation.

(2) The Certificate of Authorization will be renewed if the institution continues to remain in compliance with all requirements of this chapter.

(3) If the institution's Board-recognized accreditor changes, the current Certificate of Authorization shall be revoked under §7.71 of this subchapter (relating to Criteria for Initiating Revocation Procedures for a Certificate of Authorization) and the institution shall submit a new application for a Certificate of Authorization.

(4) If the institution's Board-recognized accreditation ends, the Certificate of Authorization is void.

(b) A Certificate of Authorization issued for a new location in Texas to allow the Texas Workforce Commission or Board-recognized accreditor to take action expires at the end of 12 months from date of issuance.

(1) At the expiration of the 12-month period, the institution shall have obtained Texas Workforce Commission licensure or exemption and Board-recognized approval of the new Texas location.

(2) If the institution has obtained Texas Workforce Commission licensure or exemption and Board-recognized approval for the new Texas location, it shall submit a new application for a Certificate of Authorization which, if granted, will continue until the end of its current grant of accreditation.

(3) If the institution has not obtained Texas Workforce Commission licensure or exemption and Board-recognized approval for the new Texas location, it shall either cease operations and comply with closure requirements under Subchapter J of this chapter (relating to Closure of a Private Postsecondary Educational Institution) or apply for a Provisional Certificate to Operate under Subchapter F of this chapter (relating to Requirements for Application, Renewal, and Amendments to a Provisional Certificate to Operate).

(c) A Certificate of Authorization issued to an out-of-state postsecondary educational institution based on experiential learning at Texas locations expires at the end of 12 months from the date of issuance.

(1) The Certificate of Authorization may be renewed by submitting updated experiential site locations, student numbers at each location, and dates of experiential learning at each location.

(2) The institution shall submit the updated information 30 to 90 days before the expiration date of its current Certificate of Authorization.

(3) The Certificate of Authorization will be renewed if the institution continues to remain in compliance with all requirements of this chapter.

*§7.71. Criteria for Initiating Revocation Procedures for a Certificate of Authorization.*

(a) An institution operating under a Certificate of Authorization shall notify the Coordinating Board as soon as practicable of any of the conditions in subsection (b)(1) - (5) of this section.

(b) The Coordinating Board shall initiate revocation procedures for a Certificate of Authorization if it has reasonable cause to believe one of the following conditions apply to the institution:

(1) The institution closes;

(2) The institution is not accredited by a Board-recognized accreditor and no longer holds a license or exemption from the Texas Workforce Commission;

(3) A main campus or location of the institution loses accreditation from its Board-recognized accreditor;

(4) A main campus or location is placed under sanctions from its Board-recognized accreditor. The Institution shall notify the Coordinating Board within three business days of written receipt of the sanction. The notification shall include:

(A) accreditor documentation of the sanction;

(B) actions required to meet the accreditor's standards and remove the sanction; and

(C) a timeline for resolution of the sanction.

(5) The institution's Board-recognized accreditor is removed from the U.S. Department of Education or the Board's list of recognized accreditors.

(c) The Coordinating Board may initiate revocation procedures or place conditions on a Certificate of Authorization if it has reasonable cause to believe one of the following conditions apply to the institution:

(1) The institution fails to comply with:

(A) data reporting;

(B) substantive change notifications; or

(C) annual compliance review requirements.

(2) The institution fails to meet the standards in Subchapter B of this chapter (relating to Standards for Operation of Postsecondary Educational Institutions);

(3) The institution fails to correct deficiencies in a timeframe required by the Coordinating Board; or

(4) The institution offers degrees not approved by its Board-recognized accreditor.

*§7.72. Revocation Procedures for a Certificate of Authorization.*

(a) The Commissioner shall provide written notice to the institution for initiation of revocation procedures. The notice shall include:

(1) The effective date of the proposed revocation, which shall be not less than ten days from the date of notice;

(2) The grounds for revocation;

(3) Any required operational limitations of the institution during the revocation procedures period;

(4) If applicable, actions required for a temporary Provisional Certificate to Operate under §7.73 of this subchapter (relating to Temporary Provisional Certificate to Operate); and

(5) Steps and documentation required for submitting a request for review of the proposed revocation decision.

(b) Within ten days of receiving the notice of initiation of revocation procedures, the institution may submit to the Commissioner a request for review of the grounds for revocation. The request for review may include one or more of the following:

(1) Proof of continued eligibility;

(2) A corrective action plan;

(3) A plan to seek new accreditation; or

(4) Any other information, including written notarized testimony, that the institution wants the Commissioner to consider.

(c) The Commissioner shall review the request under subsection (b) of this section, and issue a written notice of the determination. If adverse, the notice will include the reasons for the determination.

(d) If the institution does not submit a request for review or a signed agreement for a temporary Provisional Certificate to Operate within ten days of the notice of revocation procedures, the institution shall immediately close and follow closure requirements under Subchapter J of this chapter (relating to Closure of a Private Postsecondary Educational Institution).

(e) The institution may appeal the Commissioner's determination to the Board within forty-five (45) days of receipt. Such appeal shall be limited to the record before the Commissioner. Each party shall be provided an opportunity to present oral arguments to the Board.

*§7.73. Temporary Provisional Certificate to Operate.*

(a) The Commissioner may place an institution on a temporary Provisional Certificate to Operate if the institution's Certificate of Authorization has been revoked under §7.71 of this subchapter (relating to Criteria for Initiating Revocation Procedures for a Certificate of Authorization) if the Commissioner determines one of the following:

(1) The institution still meets the Standards for Operation in Subchapter B of this chapter (relating to Standards for Operation of Postsecondary Educational Institutions);

(2) The accreditor sanctions placed on the institution are not grounds for closure of the institution; or

(3) Immediate closure of the institution would cause undue harm to students attending the institution.

(b) Written notice placing an institution on a temporary Provisional Certificate to Operate shall be provided at the time of revocation. The written notice shall include:

(1) The effective date of the temporary Provisional Certificate to Operate;

(2) The date by which the institution shall submit a full application for a Provisional Certificate to Operate; and

(3) The steps required for reviewing the institution's application for a Provisional Certificate to Operate, include a desk review or site visit, or both.

(c) The institution shall have ten days from the notice of revocation procedures prescribed in §7.72 of this subchapter (relating to Revocation Procedures for a Certificate of Authorization) to agree to the terms of the temporary Provisional Certificate to Operate.

(d) If an institution fails to submit the required application by the date specified in the written notice, the institution shall cease operations and comply with closure requirements under Subchapter J of this chapter (relating to Closure of a Private Postsecondary Educational Institution).

*§7.74. Placing Conditions on a Certificate of Authorization.*

(a) The Commissioner may place conditions on an institution operating under a Certificate of Authorization if there is reasonable cause to believe the institution has violated any provisions of this chapter.

(b) Written notice of conditions shall be made to the institution and shall include:

(1) The proposed conditions and their effective date, which shall be not less than ten days from the date of notice; and

(2) The grounds for the proposed conditions;

(c) Within ten days of receiving the notice of the proposed conditions, the institution may submit to the Commissioner a request for review of the grounds for conditions and include any documentation the institution would like considered.

(d) The Commissioner shall review the request under subsection (b) of this section, and issue a written notice of determination. If adverse, the notice will include the reasons for the determination.

(e) If the institution does not submit a request for review within ten days, the conditions shall go into effect.

(f) The institution may appeal the Commissioner's determination to the Board within forty-five (45) days of receipt. Such appeal shall be limited to the record before the Commissioner. Each party shall be provided an opportunity to present oral arguments to the Board.

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

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## SUBCHAPTER F. REQUIREMENTSFORAPPLICATION, RENEWAL, ANDAMENDMENTS TO A PROVISIONAL CERTIFICATE TO OPERATE

**19 TAC §§7.83 - 7.98**

The new sections are proposed under Texas Education Code, Chapter 61, Subchapter G (§§61.301 - 61.321), which governs the regulation of private postsecondary educational institutions and public out-of-state postsecondary institutions operating in Texas. This includes Subchapter B (§61.026), related to advisory committees, Subchapter G (§61.314), relating to an advisory council on private postsecondary educational institutions, Subchapter H (§§61.401 - 61.405), relating to the regulation of academic terminology, and Texas Education Code, Chapter 132, which pertains to career schools and colleges.

The proposed new sections affect Texas Administrative Code, Title 19, Part 1, Chapter 7.

*§7.83. Purpose and Applicability.*

(a) The purpose of this subchapter is to set forth the requirements and process for initial application, renewal, amendment to, and revocation of a Provisional Certificate to Operate.

(b) This subchapter applies to an institution that:

(1) Is not accredited by a Board-recognized accreditor;

(2) Is not exempt under Texas Education Code, 61.303(a);

(3) Does not meet the following definitions:

(A) "institution of higher education" under Texas Education Code, §61.003; or

(B) "private or independent institution of higher education" under Texas Education Code, §61.003; and

(4) Has or will have a physical location within Texas from which it will offer a degree or courses leading to a degree.

(c) A Provisional Certificate to Operate permits the institution to operate for two years and offer a specified degree in Texas while pursuing accreditation.

(d) A private postsecondary educational institution that meets the criteria in subsection (b) of this section, and proposes to offer a degree or courses leading to a degree shall apply for a Provisional Certificate to Operate if the institution demonstrates it has operated legally for at least two years as:

(1) A non-degree-granting institution in Texas and is expanding to offer degrees or courses leading to degrees;

(2) An exempt religious institution under §7.3 of this chapter (relating to Non-Oversight of Religious Instruction Degrees) that is seeking to offer non-religious degrees or courses leading to non-religious degrees; or

(3) A degree-granting institution authorized by another state.

*§7.84. Restrictions on Professional Degrees.*

(a) A private postsecondary educational institution which is otherwise eligible to apply for a Provisional Certificate to Operate will not be authorized by the Board to offer a professional degree as defined in Subchapter A of this chapter (relating to General Provisions), unless the Board determines that:

(1) Existing programs at public and private or independent institutions of higher education in Texas are insufficient to meet state or regional workforce demand; and

(2) The institution has the capacity to offer the professional degree, including:

(A) qualified faculty and resources to ensure student success;

(B) attestation of willingness to meet the same academic and approval standards required of public and private or independent institutions of higher education under Texas Education Code, §61.003, which offer the professional degree; and

(C) documentation of adequate field placements (e.g., clinicals, clerkships) available for students.

(b) The Board shall not issue a Provisional Certificate to Operate for a professional degree if the institution:

(1) Is chartered in a foreign country; or

(2) Has its main office or primary educational program located outside the United States.

*§7.85. Application for a Provisional Certificate to Operate.*

(a) An institution shall apply for a Provisional Certificate to Operate in a manner prescribed by the Coordinating Board and using the application available on the Coordinating Board website.

(b) The submitted application shall include:

(1) The required application fee under §7.86 of this subchapter (relating to Required Fees);

(2) The required application information prescribed by Texas Education Code, 61.305(b); (3) Documentation of meeting the operational requirements under §7.83(d) of this subchapter (relating to Purpose and Applicability);

(4) Required documentation as set forth in the application that meets the criteria for each applicable standard of operation as defined in Subchapter B of this chapter (relating to Standards for Operation of Postsecondary Educational Institutions);

(5) Identification of other Texas private postsecondary institutions owned or operated by the owners or administrators of the institution which have closed, including the date of closure and reason for closure;

(6) Certification that all resources and documentation in application are true, complete, and will be available for review at the site visit; and

(7) Any additional information requested by the Coordinating Board.

*§7.86. Required Fees.*

(a) The Board shall set and publish fees every two years based on the average cost of:

(1) Staff time;

(2) Application review and consultation; and

(3) External site team evaluation.

(b) Separate fees are set for:

(1) Initial applications;

(2) Renewals; and

(3) Amendments to add degree programs.

(c) Fee changes shall be proposed by the Commissioner and approved by the Board.

*§7.87. Required Desk Review.*

(a) Upon receipt of an application for a Provisional Certificate to Operate, the application shall undergo a desk review by the Coordinating Board or an independent contractor. The desk review shall:

(1) Determine whether each required element of the application in §7.85 of this subchapter (relating to Application for a Provisional Certificate to Operate), is included in the application; and

(2) Provide one of the following assessments of the application:

(A) foundationally incomplete--the application fails to address the minimum standards;

(B) revisions required--the application requires clarifying documentation that is readily obtainable to address a required element. The institution shall resubmit the application with the requested information within thirty days of the request for clarifying documentation.

(C) ready for site visit--the application addresses all requirements to meet the minimum standards as described in §7.85 of this subchapter.

(b) If an application is deemed "Foundationally Incomplete," the application shall be rejected, and the institution may reapply after one year from the date of denial notice.

(c) A desk review shall not be considered a decision on whether the documentation included in the application meets the minimum standards of operation necessary to be approved for a Provisional Certificate to Operate.

*§7.88. Required Site Visit and Site Visit Team.*

(a) If an application is determined to be Ready for Site Visit, as prescribed in §7.87 of this subchapter (relating to Required Desk

Review), the Coordinating Board shall facilitate a site visit. The site visit team shall include at least three members, who are not employees of the Coordinating Board, with expertise in postsecondary education. The site team shall be composed of:

(1) Members from institutions of higher education or private or independent institutions of higher education;

(2) Members who do not have previous affiliation with the applicant;

(3) Members who are not part of the Certification Advisory Council at the time of the site visit;

(4) Members qualified to assess applicable standards; and

(5) A subject matter expert in the proposed degree area of study.

(b) The conditions found at the institution and documentation available as of the date of the site visit will determine the site visit team's evaluation and report, the Commissioner's recommendation, and the Board's approval or denial of the institution's application for a Provisional Certificate to Operate.

(c) The Commissioner or the Commissioner's designee shall determine if a site visit is required for a renewal or amendment application based on the results of the desk review.

*§7.89. Site Visit Team Assessment.*

(a) The site visit team shall use the following rating system for each standard set forth in Subchapter B of this chapter (relating to Standards for Operation of Postsecondary Educational Institutions);

(1) Does Not Meet Minimum Initial Requirements--Institution has not provided sufficient evidence and documentation to demonstrate that it meets the standard.

(2) Meets Initial Requirements With Conditions--Institution has provided minimum sufficient evidence and documentation demonstrating that it meets the standard but may require additional monitoring.

(3) Meets Initial Requirements Without Conditions--Institution has provided evidence and documentation demonstrating that it meets the standard.

(b) If an institution receives a rating of Meets Initial Requirements With Conditions:

(1) Required additional monitoring shall be documented by the Coordinating Board in the initial Provisional Certificate to Operate and shall be fully addressed by the institution prior to submitting a renewal application.

(2) If a rating of Meets Initial Requirements With Conditions is received for more than three (3) standards, the application shall be denied.

(c) If an institution receives a rating of "Does Not Meet Minimum Initial Requirements" on any standard when applying for its initial Provisional Certificate to Operate, the application shall be recommended for denial.

*§7.90. Ratings Required for the Renewal of a Provisional Certificate to Operate.*

(a) The site visit team shall use the following rating system for each standard set forth in Subchapter B of this chapter (relating to Standards for Operation of Postsecondary Educational Institutions), in evaluating a renewal of a provisional certificate to operate:

(1) Does Not Meet Minimum Renewal Requirements--Institution has not provided sufficient evidence and documentation to demonstrate that it meets the standard.

(2) Meets Renewal Requirements With Conditions--Institution has provided minimum sufficient evidence and documentation demonstrating that it meets the standard but may require additional monitoring.

(3) Meets Renewal Requirements Without Conditions--Institution has provided evidence and documentation demonstrating that it meets the standard. If applicable, the institution has addressed all areas that required additional monitoring in its initial Provisional Certificate to Operate.

(b) An institution shall demonstrate progress towards accreditation in its renewal application.

(c) A renewal certificate shall be recommended for denial if an institution receives a rating of Does Not Meet Minimum Requirements for any standard in its renewal application.

(d) An institution that has a renewal certificate denied shall follow procedures under §7.111 of this chapter (relating to Cessation of Operation and Teach-Out Agreements after Revocation of a Provisional Certificate to Operate.)

*§7.91. Site Visit Report and Applicant Response.*

(a) The site visit team leader shall coordinate the preparation, and submission to the Coordinating Board, of a written report within 14 days of the site visit. The report shall:

(1) Include a rating as defined in §7.89 or §7.90 of this subchapter (relating to Site Visit Team Assessment and Ratings Required for the Renewal of a Provisional Certificate to Operate, respectively), as applicable, for each standard for operation as defined in Subchapter B of this chapter (relating to Standards for Operation of Postsecondary Educational Institutions).

(2) Be based on the submitted application, any additional documentation provided during the site visit, and observations by the site team at the time of the site visit.

(3) For an initial application, include an assessment of whether the appropriate resources will be in place before the institution begins enrolling students in a degree program.

(4) List any suggested monitoring or conditions.

(b) The Coordinating Board shall provide the report to the applicant within seven days of receiving the report from the site visit team leader.

(c) The applicant may submit a written response to the Coordinating Board not later than thirty days from receiving the site visit team's written report. In its response, the applicant may:

(1) Address any findings that the applicant did not meet a required standard for operation; and

(2) Clarify information or scope of documentation which was available at the time of the site visit.

(d) The site visit team's report and applicant's response will be used to inform recommendations for approval or denial of a Provisional Certificate to Operate.

*§7.92. Recommendation to the Commissioner and Board.*

(a) Coordinating Board staff shall submit all relevant documentation and a written staff recommendation for approval or denial to the Commissioner.

(b) The Coordinating Board may, at its discretion, request a recommendation from the Certificate Advisory Committee (CAC) regarding approval or denial of the Provisional Certificate to Operate.

(c) The Commissioner shall review the submitted documentation, staff recommendation, and CAC recommendation, if applicable, and provide a recommendation to the Board on the ratings for each standard and for approval or denial of the application for a Provisional Certificate to Operate.

*§7.93. Board Review and Issuance of Provisional Certificate to Operate.*

(a) The Board shall review the Commissioner's recommendation to approve or deny an application for a Provisional Certificate to Operate, and, at a Board meeting, make the final decision for approval or denial of the certificate.

(b) If the Board approves the application, the Commissioner shall issue an initial or renewal Provisional Certificate to Operate that includes:

(1) The issue date;

(2) The approved degrees or degree-related courses;

(3) The starting and ending dates of the two-year period during which the certificate is valid;

(4) Any specific conditions, restrictions or reporting requirements recommended under §7.91 or §7.92 of this subchapter (relating to Site Visit Report and Applicant Response and Recommendation to the Commissioner and Board, respectively).

(c) If the Board denies the application, the Commissioner shall notify the applicant in writing with the reasons for denial. The institution is eligible to reapply one year from the date of denial.

*§7.94. Required Notices, Reporting and Record-Keeping.*

(a) An Institution operating under a Provisional Certificate to Operate shall post its Provisional Certificate to Operate in a prominent location on its website and any publications.

(b) An Institution operating under a Provisional Certificate to Operate shall not use misleading terms such as "accredited," "endorsed," or "recommended" by the state.

(c) An Institution operating under a Provisional Certificate to Operate shall provide the following documentation to the Coordinating Board:

(1) Upon issuance of the Provisional Certificate to Operate, within thirty days, a list of agents for the institution;

(2) Upon occurrence, within thirty days:

(A) changes in leadership, or facilities;

(B) a change in Texas Workforce Commission or other Texas state agency exemption or licensure;

(C) updated audited annual financial statements;

(D) updated financial surety instruments; and

(E) updates or changes in the institution's accreditation plan or timeline.

(F) significant changes in faculty composition

(d) Institutions operating under provisional authority must maintain student records, including enrollment, credits earned, and degrees awarded.

*§7.95. Representing Transferability of Credit with Provisional Certificate to Operate.*

An institution operating under a Provisional Certificate to Operate may enroll students in courses intended to transfer to another institution's degree program only if:

(1) The receiving institution is named and is accredited by a Coordinating Board recognized accreditor;

(2) The transferable courses are clearly identified and documented; and

(3) A written agreement between both institutions is approved by their governing boards or delegated officials and filed with the Coordinating Board.

*§7.96. Amendments to a Provisional Certificate to Operate.*

(a) Institutions are required to receive Board approval before offering a new or different degree.

(1) An amendment application to add or revise a degree under an existing program of study may be made not less than 180 days after the issuance of an initial Provisional Certificate to Operate.

(2) An institution submitting a renewal application for a Provisional Certificate to Operate may make a separate application to add or revise a degree program under an existing program of study or under a new program of study after the renewal application is approved by the Board.

(b) An application to add a degree under a new program of study requires a site visit.

(c) An institution operating under a Provisional Certificate to Operate which includes a restriction against adding or revising a degree program during the Certificate's term shall not apply to add or revise a degree program as long as the restriction remains active.

(d) Amendment applications shall be submitted using Coordinating Board-provided forms and include the applicable amendment fee under §7.86 of this subchapter (relating to Required Fees).

(e) The Commissioner may assign an independent consultant, the Certification Advisory Council, or both, to review the amendment application and make a recommendation to the Commissioner.

(f) If an application for an amendment is recommended by the Commissioner and approved by the Board, the Commissioner shall issue an amended Provisional Certificate to Operate reflecting the new or revised degree program.

*§7.97. Renewal of a Provisional Certificate to Operate.*

(a) A Provisional Certificate to Operate is valid for two years from the date granted.

(b) Renewal applications.

(1) A renewal application for a Provisional Certificate to Operate may be made every two years and shall be submitted between 180 days and 210 days before the current provisional authority expires. The renewal application shall:

(A) be submitted in a manner prescribed by the Coordinating Board on an application form provided on the Board website;

(B) contain the required elements for a renewal application under §7.85 of this subchapter (relating to Application for a Provisional Certificate to Operate);

(C) include the required renewal fee under §7.86 of this subchapter (relating to Required Fees); and

(D) include documentation of any accreditation applications or renewals.

(2) The Board may approve a renewal of a Provisional Certificate to Operate at a Board meeting if it determines the institution:

(A) meets all required standards; and

(B) is making satisfactory progress toward accreditation.

(c) An institution may operate under a Provisional Certificate to Operate for a total of eight years. After eight years, the institution shall be accredited by a Board-recognized accreditor or will no longer be authorized to award degrees.

(d) Appeal for extension.

(1) If an institution is not accredited after eight years, the institution may appeal to the Board for an extension of eligibility for a Provisional Certificate to Operate.

(2) The appeal shall be submitted in a manner prescribed by the Coordinating Board. The Coordinating Board staff shall make a recommendation to the Commissioner as to whether good cause exists to extend eligibility including, but not limited to:

(A) delay in receiving accreditation caused by an accreditor;

(B) natural disaster; or

(C) any other factor outside of the institution's control.

(3) The Commissioner shall make a recommendation to the Board for approval or denial of the extension.

(4) The Board shall consider the request at a Board meeting and may approve or deny the request.

*§7.98. Right to Request Hearing.*

If an original, amended or renewal application is denied under this subchapter, the institution may request a hearing, under the Administrative Procedure Act (APA), Chapter 2001, Government Code. A hearing requested pursuant to the APA is subject to Chapter 1, Subchapter B of this title (relating to Dispute Resolution).

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

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## SUBCHAPTER G. REQUIREMENTS FOR DISCONTINUATION OR REVOCATION OF A PROVISIONAL CERTIFICATE TO OPERATE

### 19 TAC §§7.108 - 7.113

The new sections are proposed under Texas Education Code, Chapter 61, Subchapter G (§§61.301 - 61.321), which governs the regulation of private postsecondary educational institutions and public out-of-state postsecondary institutions operating in Texas. This includes Subchapter B (§61.026), related to advisory committees, Subchapter G (§61.314), relating to an advisory council on private postsecondary educational institutions, Subchapter H (§§61.401 - 61.405), relating to the regulation of academic terminology, and Texas Education Code, Chapter 132, which pertains to career schools and colleges.

The proposed new sections affect Texas Administrative Code, Title 19, Part 1, Chapter 7.

*§7.108. Purpose and Applicability.*

(a) The purpose of this subchapter is to outline the requirements and process for the discontinuation or revocation of a Provisional Certificate to Operate.

(b) This subchapter applies to an institution operating under a Provisional Certificate to Operate.

*§7.109. Discontinuing a Degree Program While Under a Provisional Certificate to Operate.*

(a) An institution operating under a Provisional Certificate to Operate which discontinues a degree program shall submit to the Coordinating Board a teach-out agreement pursuant to §7.112 of this subchapter (relating to Requirements for Teach-Out Agreements).

(b) If an institution operating under Provisional Certificate to Operate discontinues all degree programs, the Provisional Certificate to Operate is automatically revoked.

*§7.110. Revocation of Provisional Certificate to Operate.*

(a) The Coordinating Board may revoke a Provisional Certificate to Operate if the institution:

(1) No longer holds a Certificate of Approval or Exemption from the Texas Workforce Commission, if one is required;

(2) Fails to comply with required reporting or notification under Subchapter I of this chapter (relating to Change of Ownership or Control and Other Substantive Changes) or Subchapter L of this chapter (relating to Student Data and Protections);

(3) Offers degrees or courses not approved by the Board;

(4) Fails to maintain the operational standards in Subchapter B of this chapter (relating to Standards for Operation of Postsecondary Educational Institutions);

(5) Violates any rule or regulation applicable to private postsecondary institutions under this chapter;

(6) Fails to comply with any conditions or reporting requirements in its Provisional Certificate to Operate; or

(7) Included false information in its application.

(b) The Coordinating Board shall notify the institution in writing, via email and certified mail, of the grounds for revocation. Within ten days, the institution shall:

(1) Cease operations and follow the provisions under §7.111 of this subchapter (relating to Cessation of Operation and Teach-Out Agreements after Revocation of a Provisional Certificate to Operate); or

(2) Respond with evidence of continued eligibility and, if applicable, submit required data.

(c) The Commissioner will review the response and issue a determination not later than thirty days from receipt of the institutional response.

*§7.111. Cessation of Operation and Teach-Out Agreements after Revocation of a Provisional Certificate to Operate.*

(a) If a Provisional Certificate to Operate is revoked, the institution shall immediately stop all operations, including:

(1) Granting degrees;

(2) Offering degree-related courses;

(3) Accepting payments for such courses; and

(4) Enrolling new students.

(b) Within thirty days of revocation, the institution shall submit for approval to the Coordinating Board a teach-out agreement pursuant to §7.112 of this subchapter (relating to Requirements for Teach-Out Agreements).

(c) The institution shall comply with closure requirements under Subchapter J of this chapter (relating to Closure of a Private Postsecondary Educational Institution).

*§7.112. Requirements for Teach-Out Agreements.*

(a) A teach-out agreement shall:

(1) Ensure students can complete their education through a teach-out agreement with:

(A) another institution holding a Provisional Certificate to Operate;

(B) an institution operating under a Certificate of Authorization; or

(C) a public or private or independent institution of higher education as defined in Texas Education Code, §61.003.

(2) Include provisions for student records, student transfer, and degree completion; and

(3) Be signed by the governing board or designated official for the closing institution and an institution listed in paragraph (1)(A) - (C) of this subsection;

(b) Each teach-out agreement shall be submitted, in writing, to the Coordinating Board.

(c) The Coordinating Board shall notify the institution of either approval or changes required to the teach-out agreement prior to approval.

(d) Upon receipt of written approval from the Coordinating Board, within seven days, the institution shall implement the teach-out agreement.

*§7.113. Reapplication after Revocation of Provisional Certificate to Operate.*

(a) Institutions shall not apply for a Provisional Certificate to Operate for at least one year after the date the Provisional Certificate to Operate was revoked.

(b) A new application after revocation shall address:

(1) Correction of all deficiencies specified by the Coordinating Board revocation letter;

(2) The institution's progress toward accreditation during the revocation period, if applicable;

(3) A record of effective institutional management during the revocation period; and

(4) Compliance with any conditions, restrictions, or reporting requirements from the previous provisional authority period.

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## SUBCHAPTER H. REVIEW AND USE OF DEGREES FROM INSTITUTIONS NOT ELIGIBLE FORAPROVISIONALCERTIFICATE TOOPERATE

### 19 TAC §§7.121 - 7.125

The new sections are proposed under Texas Education Code, Chapter 61, Subchapter G (§§61.301 - 61.321), which governs the regulation of private postsecondary educational institutions and public out-of-state postsecondary institutions operating in Texas. This includes Subchapter B (§61.026), related to advisory committees, Subchapter G (§61.314), relating to an advisory council on private postsecondary educational institutions, Subchapter H (§§61.401 - 61.405), relating to the regulation of academic terminology, and Texas Education Code, Chapter 132, which pertains to career schools and colleges.

The proposed new sections affect Texas Administrative Code, Title 19, Part 1, Chapter 7.

*§7.121. Entities Which May Have Degrees Eligible for Review.*

An entity that is not eligible for a Provisional Certificate to Operate but may have degrees eligible for review is:

(1) A degree-granting entity which is operating in another U.S. state, is in compliance with its state's regulations concerning conferral of degrees or in the state in which a degree recipient was residing, and does not have institutional accreditation which is recognized by the Coordinating Board; or

(2) A degree-granting entity which is operating outside the United States, is in compliance with its country's regulations concerning conferral of degrees and does not have institutional accreditation which is recognized by the Coordinating Board.

*§7.122. Persons Who May Request Review of a Degree from an Institution Which is Not Eligible for Provisional Certificate to Operate.*

(a) A person who holds a degree from an entity as described in §7.121 of this subchapter (relating to Entities Which May Have Degrees Eligible for Review), or the entity itself may request a review by the Coordinating Board.

(b) Requests for review shall be made on a form provided by the Coordinating Board. The person or institution submitting the request shall provide the fee under §7.125 of this subchapter (relating to Fees for Review of a Degree) and sufficient documentation for a comprehensive review of the degree.

*§7.123. Review of a Degree from an Entity Which is Not Eligible for a Provisional Certificate to Operate.*

(a) Degrees from an entity described in §7.121 of this subchapter (relating to Entities Which May Have Degrees Eligible for Review), will be evaluated by the Coordinating Board to determine equivalency to a degree awarded by an institution authorized to award degrees in Texas.

(1) Standards found in Subchapter B of this chapter (relating to Standards for Operation of Postsecondary Educational Institu-

tions) will be used to assess whether the degree meets standards for curriculum and degree credits.

(2) Standards of a foreign credential evaluation service which is a member of the National Association of Credential Evaluation Services (NACES) or the Association of International Credential Evaluators (AICE) may be used to provide a course-by-course evaluation of a foreign credential.

(b) The Commissioner or designee shall use a reviewer to conduct a desk review of the degree review application and documentation. A reviewer may be:

(1) An independent consultant who has experience in accredited postsecondary institutions and knowledge of accreditation standards; or

(2) A foreign credential evaluation service which is a member of the National Association of Credential Evaluation Services (NACES) or the Association of International Credential Evaluators (AICE).

(c) The reviewer shall provide a written report on the equivalency of the submitted degree with a degree awarded by an institution authorized to award degrees in Texas.

*§7.124. Recommendation to the Commissioner.*

(a) Coordinating Board staff shall submit all relevant documentation and a written recommendation for approval or denial to the Commissioner.

(b) The Commissioner shall review the submitted documentation, and staff recommendation, and make a final determination on equivalency of the degree.

(c) If the Commissioner determines the degree is equivalent to a degree awarded by an institution authorized to award degrees in Texas, the Commissioner shall issue a letter providing:

(1) The degree conferred by the entity is equivalent to a degree awarded by an institution authorized to award degrees in Texas;

(2) The degree is acceptable for use in the state; and

(3) The degree approval is limited to the time at which the degree was conferred.

(d) If the Commissioner determines the degree is not equivalent to a degree awarded by an institution authorized to award degrees in Texas, the Commissioner shall issue a letter stating that degree is not acceptable for use in the state.

*§7.125. Fees for Review of a Degree.*

The Coordinating Board shall charge the applicant a fee in an amount necessary to cover the cost of conducting the review. The fee shall be posted on the Coordinating Board website.

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## SUBCHAPTER I. CHANGE OF OWNERSHIP OR CONTROL AND OTHER SUBSTANTIVE CHANGES

### 19 TAC §§7.135 - 7.137

The new sections are proposed under Texas Education Code, Chapter 61, Subchapter G (§§61.301 - 61.321), which governs the regulation of private postsecondary educational institutions and public out-of-state postsecondary institutions operating in Texas. This includes Subchapter B (§61.026), related to advisory committees, Subchapter G (§61.314), relating to an advisory council on private postsecondary educational institutions, Subchapter H (§§61.401 - 61.405), relating to the regulation of academic terminology, and Texas Education Code, Chapter 132, which pertains to career schools and colleges.

The proposed new sections affect Texas Administrative Code, Title 19, Part 1, Chapter 7.

*§7.135. Change in Ownership or Control.*

(a) A change of ownership or control of a private postsecondary educational institution renders its Certificate of Authorization or Provisional Certificate to Operate void unless the institution meets the requirements of this subchapter.

(b) Ownership or control transfers within the same corporate entity (e.g., transfer between subsidiaries or divisions or reallocation of ownership shares), which are approved by the institutional accreditor, may allow an institution to continue operating under a Certificate of Authorization or Provisional Certificate to Operate at the determination and discretion of the Coordinating Board. The institution shall comply with all requirements in this subchapter.

(c) Changes to approved degree programs resulting from a change in ownership or control are considered program revisions. Program revisions must be submitted for approval under the procedures in Subchapters E and F of this chapter (relating to Authorization of Accredited Institutions and relating to Requirements for Application, Renewal, and Amendments to a Provisional Certificate to Operate, respectively).

*§7.136. Requirements to Maintain Authorization to Operate During a Change in Ownership or Control.*

The Commissioner may allow an institution to retain its Certificate of Authorization or Provisional Certificate to Operate during and after a change in ownership or control if the institution:

(1) Notifies the Coordinating Board in writing no later than 90 days prior to the proposed ownership change;

(2) Submits the following required documentation:

(A) proof of compliance with Texas Workforce Commission requirements for a change of ownership or control;

(B) certification from the new owner or controlling interest agreeing to follow all applicable state law and Board rules;

(C) documentation of accreditor approval for the new owner or controlling interest or evidence that the new owner or controlling interest can meet the terms of the current certificate of authorization or provisional authority to operate a non-accredited institution; and

(D) evidence of financial stability, including:

*(i)* audited financial statements for the new owner or controlling interest;

*(ii)* certification that the new owner or controlling interest is not under federal financial aid restrictions or debarment;

*(iii)* if requested, audited financial records of the new owner or controlling interest; and

*(iv)* if applicable, identification of a new Single Point of Contact.

*§7.137. Other Substantive Changes Requiring Notification.*

(a) Notifications of substantive changes shall be made to the Coordinating Board by the institution's Single Point of Contact.

(b) Substantive changes required to be reported to the Coordinating Board include:

(1) Governance changes;

(2) Location changes;

(3) Accrediting agency or accreditation status;

(4) Degree level or program offerings;

(5) Institutional name change;

(6) Eligibility for federal financial aid based on financial or accreditation status; or

(7) Any other significant modification to an institution's operations which could affect the institution's authorization status.

(c) Institutions shall provide documentation of institutional accreditor or governmental agency approval as applicable to the substantive change.

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## SUBCHAPTER J. CLOSURE OF A PRIVATE POSTSECONDARY EDUCATIONAL INSTITUTION

**19 TAC §§7.148 - 7.151**

The new sections are proposed under Texas Education Code, Chapter 61, Subchapter G (§§61.301 - 61.321), which governs the regulation of private postsecondary educational institutions and public out-of-state postsecondary institutions operating in Texas. This includes Subchapter B (§61.026), related to advisory committees, Subchapter G (§61.314), relating to an advisory council on private postsecondary educational institutions, Subchapter H (§§61.401 - 61.405), relating to the regulation of academic terminology, and Texas Education Code, Chapter 132, which pertains to career schools and colleges.

The proposed new sections affect Texas Administrative Code, Title 19, Part 1, Chapter 7.

*§7.148. Notification of Closure.*

(a) A private postsecondary educational institution shall notify the Coordinating Board in writing at least 90 days before its planned closure date.

(b) If the closure is unexpected, the private postsecondary educational institution shall notify the Coordinating Board immediately upon a decision to cease operations and close the institution.

*§7.149. Withdrawal of Authority to Operate Upon Closure.*

(a) A private postsecondary educational institution's authority to operate is automatically withdrawn upon closure. Withdrawal of authority to operate applies to institutions under a Certificate of Authorization or a Provisional Certificate to Operate.

(b) If the owners or administrators of the closing institution seek to operate a new institution, the Board may consider, when reviewing an application, the history with other Texas private postsecondary institutions owned or operated by the owners or administrators of the closing institution.

*§7.150. Requirements for a Closing Private Postsecondary Educational Institution to Protect Students.*

(a) If students are enrolled at the time of closure, the closing institution shall ensure students can complete their education by arranging a Board-approved teach-out agreement pursuant to §7.112 of this chapter (relating to Requirements for Teach-Out Agreements).

(b) The closing institution shall transfer all academic records in accordance with Subchapter L of this chapter (relating to Student Data and Protections).

*§7.151. Limited Authorization to Teach Out Students of a Closed Private Postsecondary Educational Institution.*

(a) If the teach-out institution is not already approved to offer the degrees which are subject to the teach-out agreement, the Commissioner may grant additional limited authority to an institution teaching out students from a closed private postsecondary educational institution. The teach-out institution shall be:

(1) Accredited by a Board-recognized accreditor; and

(2) Operating as one of the following institutions:

(A) a private postsecondary educational institution under a certificate of authorization;

(B) an out-of-state postsecondary educational institution which meets the requirements under this chapter to operate as a private postsecondary educational institution;

(C) a public institution of higher education; or

(D) a private or independent institution of higher education.

(b) The temporary authorization is limited to:

(1) The period of time needed to teach-out the last student enrolled in a degree program at the time of closure;

(2) The location of the teach-out degree programs is either at an existing authorized location of the teach-out institution or at a temporary location to be utilized only for the teach-out degree programs;

(3) The degree program is temporarily approved by the teach-out institution's accreditor at either the teach-out institution's existing authorized location or a temporary location to be utilized only for the teach-out degree programs;

(4) The degree program to be offered by the teach-out institution has been previously approved by the accreditor for another location of the teach-out institution. This location may be either in-state or out-of-state; and

(5) If licensure is required for graduates of the teach-out degree, the agency responsible for licensure of graduates has approved the teach-out agreement;

(c) The teach-out institution shall be authorized during the limited period of time to award the teach-out degrees under the teach-out institution's name.

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## SUBCHAPTER K. ADMINISTRATIVE INJUNCTIONS, LIMITATIONS, AND PENALTIES

### 19 TAC §§7.163 - 7.169

The new sections are proposed under Texas Education Code, Chapter 61, Subchapter G (§§61.301 - 61.321), which governs the regulation of private postsecondary educational institutions and public out-of-state postsecondary institutions operating in Texas. This includes Subchapter B (§61.026), related to advisory committees, Subchapter G (§61.314), relating to an advisory council on private postsecondary educational institutions, Subchapter H (§§61.401 - 61.405), relating to the regulation of academic terminology, and Texas Education Code, Chapter 132, which pertains to career schools and colleges.

The proposed new sections affect Texas Administrative Code, Title 19, Part 1, Chapter 7.

*§7.163. Prohibited Conduct.*

A person or institution may not engage in the following activities unless authorized by the Coordinating Board:

(1) Grant, award, or offer to award a degree without a valid Certificate of Authorization or Provisional Certificate to Operate.

(2) Claim or imply that credits earned are transferable toward a degree at another institution unless:

(A) the transferring institution holds a Certificate of Authorization or Provisional Certificate to Operate; and

(B) a written agreement exists with the receiving institution.

(3) Award or offer to award an honorary degree without a Certificate of Authorization or Provisional Certificate to Operate, or knowingly solicit or encourage others to seek or accept such a degree. Any honorary degree shall clearly state in writing that it is honorary.

(4) Use a protected term as defined in Subchapter A (relating to General Provisions) in the official name or title of an institution or to describe an institution, without Board approval. This prohibition applies to educational or training establishments as defined in Texas Education Code, §61.302, and includes soliciting others to pursue degrees or credits from institutions the actor knows is improperly using such terms.

(5) Act as an agent recruiting students for a private postsecondary educational institution without a required Certificate of Agent Registration.

(6) Knowingly use or claim a fraudulent, substandard, or fictitious degree in Texas:

(A) in advertisements or business promotions; or

(B) with intent to:

*(i)* obtain employment or licensure;

*(ii)* gain admission to an educational program;

*(iii)* receive promotions or benefits; or

*(iv)* secure a government position with authority over others.

*§7.164. Publication of Authorized and Unauthorized Degrees.*

The Coordinating Board shall, to the extent known, maintain and publish on its website:

(1) Accreditation and authorization status of private postsecondary educational institutions operating in Texas;

(2) Identification of institutional accreditors recognized by the Coordinating Board to accredit degree-granting institutions operating in Texas;

(3) Institutions found to be in violation of this chapter or whose degrees may not be legally used in Texas; and

(4) Other relevant information to protect the public from fraudulent or substandard degrees.

*§7.165. Limitations on Educational Institutions.*

(a) Educational institutions may conduct limited activities on land under federal jurisdiction.

(1) Educational institutions operating on land under exclusive federal jurisdiction in Texas must limit the following activities to that land and to individuals who live or work there, including their dependents:

(A) student recruitment;

(B) advertising of programs or courses; and

(C) delivery of degree programs or courses.

(2) If operating outside such federal land, these educational institutions shall comply fully with all applicable rules under this chapter.

(b) Associate of Occupational Studies degrees shall not be offered by a private postsecondary educational institution unless the institution has been authorized by the Coordinating Board to offer and award these degrees.

(1) Authorized institutions may offer the Associate of Occupational Studies degrees only in:

(A) automotive Mechanics;

(B) diesel Mechanics;

(C) refrigeration; and

(D) electronics.

(2) No new Associate of Occupational Studies program areas shall be considered by the Board.

(3) Authorized institutions shall:

(A) use the full term "Associate of Occupational Studies" when referring to the degree; and

(B) not represent the Associate of Occupational Studies degree (AOS) as equivalent to an Associate of Applied Science (AAS) or Associate of Arts (AA) degree.

*§7.166. Criminal Offenses.*

Violations of this chapter may constitute criminal offenses pursuant to:

(1) Texas Penal Code, §32.52, for use of a fraudulent, substandard, or fictitious degree.

(2) Texas Education Code, §61.304, for granting, offering, or soliciting degrees without a certificate of authority.

(3) Texas Education Code, §61.312, for granting, offering, or soliciting honorary degrees without a certificate of authority.

(4) Texas Education Code, §61.313, for unlawful use of protected terms.

(5) Any other state or federal law imposing criminal penalties.

*§7.167. Administrative and Civil Penalties.*

(a) The Commissioner may impose administrative penalties for violations of the requirements in this chapter. The Commissioner may assess the following administrative penalties to a person:

(1) $3,000 per violation for conferring or offering to confer a degree on behalf of a private postsecondary educational institution without a Certificate of Authorization or Provisional Certificate to Operate.

(2) $1,000 per violation for representing that credits earned or granted by a private postsecondary educational institution without a Certificate of Authorization or Provisional Certificate to Operate are applicable for credit toward a degree to be granted by another person or institution.

(3) $1,000 for establishing a private postsecondary educational institution without a Certificate of Authorization or Provisional Certificate to Operate and using a protected term in the name of the institution.

(4) $1,000 for establishing an educational or training establishment and using a protected term in the name or title of the establishment.

(5) $3,000 for failing to maintain enrolled or former student academic records as required by the Coordinating Board, or failing to protect the personally identifiable information of enrolled or former students per violation.

(6) $1,000 for an unregistered agent soliciting a student for enrollment in a private postsecondary institution per violation.

(b) A person who violates Texas Education Code, §§61.301 - 61.321 or this chapter is liable for civil penalty of up to $1,000 per day per violation, in addition to all other remedies.

*§7.168. Other Legal Remedies.*

(a) Violations of the requirements in this chapter may constitute deceptive acts under Texas Business and Commerce Code, §17.46.

(b) This subchapter does not limit any rights or remedies available under the Texas Business and Commerce Code, Chapter 17, or any other applicable state or federal law.

(c) Any person or institution whose operations are found to be in violation under this chapter shall cease those operations immediately.

(d) The Commissioner may report information concerning violations of this chapter to the Attorney General. The Attorney General may investigate such reports and bring legal action including but not limited to a suit to enjoin any alleged violation.

*§7.169. Process for Notice and Appeal of Penalty Assessment.*

(a) The Commissioner shall notify the person or institution subject to penalty in writing via email and certified mail, stating:

(1) The facts of the violation;

(2) The penalty amount; and

(3) The right to request a hearing.

(b) The penalty becomes final unless the recipient requests a hearing within forty-five (45) days of receiving the notice, in accordance with Chapter 1, Subchapter B of this title (relating to Dispute Resolution).

(c) If the penalty is not paid within thirty days after becoming final, the Commissioner may refer the matter to the Attorney General for collection, including court costs and attorney fees.

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

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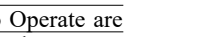

## SUBCHAPTER L. STUDENT DATA AND PROTECTIONS

### 19 TAC §§7.180 - 7.185

The new sections are proposed under Texas Education Code, Chapter 61, Subchapter G (§§61.301 - 61.321), which governs the regulation of private postsecondary educational institutions and public out-of-state postsecondary institutions operating in Texas. This includes Subchapter B (§61.026), related to advisory committees, Subchapter G (§61.314), relating to an advisory council on private postsecondary educational institutions, Subchapter H (§§61.401 - 61.405), relating to the regulation of academic terminology, and Texas Education Code, Chapter 132, which pertains to career schools and colleges.

The proposed new sections affect Texas Administrative Code, Title 19, Part 1, Chapter 7.

*§7.180. Student Data Reporting.*

All institutions authorized under this chapter shall submit annual student data reports to the Coordinating Board.

(1) Reports shall be submitted in the format specified by the Coordinating Board.

(2) The data shall be maintained and readily available in student academic records as listed in this subchapter.

(3) Annual student data reporting may include:

(A) enrollment figures;

(B) retention and graduation rates;

(C) degrees awarded;

(D) demographic information; and

(E) other data necessary to evaluate institutional performance and compliance.

*§7.181. Academic Records Maintenance and Protection.*

(a) An institution authorized under this chapter shall:

(1) Maintain secure and permanent academic records and catalogs as required in Subchapter B of this chapter (relating to Standards for Operation of Postsecondary Educational Institutions) using current data protection standards; and

(2) Protect the personally identifiable information of all current and former students.

(b) At the end of each academic year, the institution shall:

(1) Consolidate records for all students who graduated, withdrew, or stopped attending that year;

(2) Store these records in a printable electronic format specified by the Coordinating Board, such as PDF or other readable format which does not require specialized software or licensure; and

(3) Divide the records into a separate file for each student.

(c) The institution shall make student academic records available to the Coordinating Board upon request.

(d) An institution shall, at a minimum, provide the following information on a student transcript:

(1) Sufficient information to identify the student for which academic information is provided;

(2) Dates of enrollment;

(3) Specific semesters or quarters in which courses were taken;

(4) Course information, including course name, code, or title;

(5) Number of credits assigned to each course;

(6) Letter grade or numerical score earned by the student, including, as applicable, withdrawals or incomplete courses;

(7) Explanation of grading scale;

(8) An overall grade point average;

(9) Designation of degree earned, including any specialized certifications necessary for licensure;

(10) Indication as to official or unofficial records; and

(11) Signature or other designation showing the transcript was prepared by the institution.

*§7.182. Academic Records Management Upon Private Postsecondary Institution Closure.*

(a) An institution authorized under this chapter shall submit to the Coordinating Board a plan to secure and store all student records. This plan shall be submitted the earlier date of either the notice of planned closure or 90 days prior to closure.

(b) If the institution is part of a larger educational system still operating in the U.S., records shall be:

(1) Maintained at the main campus or corporate office; and

(2) Accompanied by up-to-date contact information for transcript requests. The educational system shall continue to provide contact updates or changes for transcript requests.

(c) If students are transferred to another institution through a teach-out agreement, the receiving institution shall maintain those students' academic records.

(d) If the institution is closing all locations, it shall transfer all academic records to the Coordinating Board, as a repository of last resort. These records shall:

(1) Include all academic information typically required for transfer or graduate study;

(2) Be submitted in a Coordinating Board-specified format under this subchapter with a separate, printable file for each student; and

(3) Include a final copy of the student catalog showing degree plans and course descriptions.

(e) If the Commissioner believes student records are at risk of being lost, destroyed, or hidden during a closure, the Commissioner may seek court authority to take possession of the records on behalf of the Board.

*§7.183. Closed Institution Records Repository of Last Resort.*

(a) As a repository of last resort, the Coordinating Board will maintain a permanent repository for academic records from closed institutions previously authorized under a Certificate of Authorization or with provisional authority to operate.

(b) The Coordinating Board may transfer closed institution records to another entity to maintain and fulfill transcript requests as its designated closed institution academic custodian of record. The designated custodian of record will have the authority to provide transcripts and issue documentation of no records with the same authority as if issued by the Coordinating Board.

(c) Upon request and identity verification, the Coordinating Board or its designated custodian of record shall provide a student or a student-authorized third party with:

(1) A copy of the student's academic record as received; or

(2) Documentation indicating no records were found for the closed institution or the student.

(d) A fee may be charged to cover retrieval, reproduction, and mailing costs. If applicable, the designated custodian of record may set the fee.

(e) A statement will accompany the record noting:

(1) The institution's closure date, if available; and

(2) The record is unaltered and provided as received.

*§7.184. Financial Protections for Student Tuition and Fees.*

(a) Institutions operating under a Certificate of Authorization or a Provisional Certificate to Operate shall maintain financial protections to ensure students are reimbursed for unearned tuition and fees if the institution closes or violates minimum standards.

(1) The Coordinating Board sets a minimum amount for the surety instrument to cover administrative costs.

(2) Institutions which do not charge tuition or fees are required to submit the minimum amount for a surety instrument.

(3) Affected individuals, including students, parents or guardians, or another entity paying tuition and fees on behalf of the

student may make a claim based on a Qualifying Event under §7.185 of this subchapter (relating to Student Tuition and Fee Recovery Process).

(b) Institutions shall demonstrate financial protection through one or more of the following:

(1) Reserve funds;

(2) Lines of credit; or

(3) Surety instruments (e.g., surety bond, escrow account, certificate of deposit, irrevocable letter of credit, or a contract with a qualified third-party entity).

(c) Financial protections shall:

(1) Be in a form and amount approved by the Coordinating Board;

(2) Cover the maximum unearned tuition and fees for the longest academic term offered (e.g., semester, quarter) and administrative costs in distributing any qualified reimbursements. The Coordinating Board will provide a calculation template;

(3) Be conditioned to reimburse students, parents or guardians, or another entity paying tuition and fees on behalf of the student for losses due to school closure or violations of minimum standards; and

(4) Be held in Travis County, Texas, and accessible only by the Board for the benefit of affected students;

(d) The financial protection instrument shall be accompanied by a signed letter from an institution's authorized representative detailing:

(1) The method used to calculate the required financial protection amount; and

(2) Supporting documentation.

(e) Any falsification of financial documentation will be reported to the Attorney General under Subchapter K of this chapter (relating to Administrative Injunctions, Limitations, and Penalties).

*§7.185. Student Tuition and Fee Recovery Process.*

(a) In order to recover unearned tuition and fees, a Qualifying Event shall occur. The Coordinating Board will publish the date of a Qualifying Event, should one occur.

(b) A "Qualifying Event" occurs when a student, parent or guardian, or another entity paying tuition and fees on behalf of the student, suffers financial loss due to:

(1) An institution's closure; or

(2) A violation of minimum Board standards as provided in Subchapter B (relating to Standards for Operation of Postsecondary Educational Institutions).

(c) The Coordinating Board may withdraw the full amount of the institution's financial protection instrument if a Qualifying Event occurs.

(d) Affected individuals or entities shall submit a claim form provided by the Coordinating Board. A claim shall:

(1) Include supporting documents (e.g., enrollment agreements, transcripts, payment records); and

(2) Be submitted within 12-month claim period of the published Qualifying Event date.

(e) The Coordinating Board shall review claims within thirty days after the 12-month claim period ends.

(f) Refunds shall be issued based on verified tuition and fee losses.

(1) If total claims exceed available funds, refunds shall be prorated based on each claimant's verified loss.

(2) If available funds exceed total claims, the Board may retain an amount reasonably necessary to preserve, maintain, and provide access to student records.

(3) Any remaining funds shall be returned to the institution or its legal successor (e.g., receiver or trustee).

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

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## SUBCHAPTER M. DISTANCE EDUCATION APPROVAL FOR DEGREE-GRANTING EDUCATIONAL INSTITUTIONS

### 19 TAC §§7.196 - 7.199

The new sections are proposed under Texas Education Code, Chapter 61, Subchapter G (§§61.301 - 61.321), which governs the regulation of private postsecondary educational institutions and public out-of-state postsecondary institutions operating in Texas. This includes Subchapter B (§61.026), related to advisory committees, Subchapter G (§61.314), relating to an advisory council on private postsecondary educational institutions, Subchapter H (§§61.401 - 61.405), relating to the regulation of academic terminology, and Texas Education Code, Chapter 132, which pertains to career schools and colleges.

The proposed new sections affect Texas Administrative Code, Title 19, Part 1, Chapter 7.

*§7.196. Applicability of Distance Education Exemption to Institution Outside of Texas.*

An institution operating or located outside of Texas that intends to offer distance education, as defined under Subchapter A of this chapter (relating to General Provisions), to Texas residents, shall comply with this subchapter.

*§7.197. Distance Education Exemption for Institution Outside of Texas.*

(a) An out-of-state institution covered by a reciprocal state exemption agreement is exempt from Coordinating Board approval to offer distance education to Texas residents. The institution shall operate under the terms of the reciprocal state exemption agreement and be subject to all requirements under the agreement.

(b) An out-of-state institution not covered by a reciprocal state exemption agreement is exempt from Board approval if it meets the following:

(1) The institution is:

(A) accredited at the degree level by a Board-recognized accreditor;

(B) accredited at the degree level by an accreditor recognized by the U.S. Department of Education; or

(C) under the oversight of a Texas state agency for licensure training and authorizes graduates to take a professional or vocational state licensing examination administered by that agency.

(2) The institution has no physical presence in Texas, as defined in Subchapter A of this chapter (relating to General Provisions); and

(3) The institution agrees to comply with principles of best practice for distance education listed in §7.199 of this subchapter (relating to Principles of Best Practice for Distance Education).

(c) A distance education exemption applies only to the degree level for which the out-of-state institution is accredited.

(d) A distance education exemption remains valid only while the out-of-state institution continues to meet all criteria.

*§7.198. Inapplicability of Distance Education Exemption.*

(a) A previously exempt out-of-state institution shall apply for either a Certificate of Authorization or Provisional Certificate to Operate if:

(1) The institution loses accreditation;

(2) The institution establishes a physical presence in Texas; or

(3) The institution is no longer covered by a reciprocal state exemption agreement.

(b) An out-of-state institution is not exempt and shall obtain Board authorization under Subchapter F of this chapter (relating to Requirements for Application, Renewal, and Amendments to a Provisional Certificate to Operate) to offer distance education to Texas residents if it is not:

(1) Accredited at the degree level by a Board-recognized accreditor;

(2) Accredited at the degree level by an accreditor recognized by the U.S. Department of Education; or

(3) Under the oversight of a Texas state agency for licensure-related training and authorization of graduates to take a professional or vocational state licensing examination administered by that agency.

(c) An out-of-state institution offering both religious instruction degrees and non-religious instruction degrees is not exempt from Board approval to offer distance education to Texas residents unless it meets the requirements under §7.197 of this subchapter (relating to Distance Education Exemption for Institution Outside of Texas).

(d) An institution offering distance education from a location in Texas is not exempt and shall obtain Board authorization to offer degrees under either a Certificate of Authorization or a Provisional Certificate to Operate.

(e) A non-exempt institution offering distance education to Texas residents, in addition to obtaining Board authorization either under a Certificate of Authorization or a Provisional Certificate to Operate, shall comply with the principles of best practice for distance education listed in §7.199 of this subchapter (relating to Principles of Best Practice for Distance Education).

*§7.199. Principles of Best Practice for Distance Education.*

(a) All institutions offering distance education under this section shall meet the following best practices:

(1) Distance education aligns with the institution's mission;

(2) Distance education is integrated into institutional planning and evaluation;

(3) Governance and academic oversight include distance education programs;

(4) Distance education curricula are coherent, rigorous, and comparable to in-person programs:

(5) The institution evaluates and improves distance education effectiveness;

(6) Faculty are qualified and supported in delivering distance education;

(7) Students receive appropriate academic and support services for distance education:

(8) Resources are sufficient to support distance education offerings; and

(9) The institution ensures the integrity of its distance education programs.

(b) The Coordinating Board may request certification that the institution is in compliance with the requirements of this section.

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

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## SUBCHAPTER N. PARTICIPATION IN THE STATE AUTHORIZATION RECIPROCITY AGREEMENT (SARA)

**19 TAC §§7.210 - 7.217**

The new sections are proposed under Texas Education Code, Chapter 61, Subchapter G (§§61.301 - 61.321), which governs the regulation of private postsecondary educational institutions and public out-of-state postsecondary institutions operating in Texas. This includes Subchapter B (§61.026), related to advisory committees, Subchapter G (§61.314), relating to an advisory council on private postsecondary educational institutions, Subchapter H (§§61.401 - 61.405), relating to the regulation of academic terminology, and Texas Education Code, Chapter 132, which pertains to career schools and colleges.

The proposed new sections affect Texas Administrative Code, Title 19, Part 1, Chapter 7.

*§7.210. Purpose and Applicability.*

(a) The purpose of this subchapter is to define the Coordinating Board's role in overseeing private or independent institutions of higher

education and private postsecondary educational institutions that participate in State Authorization Reciprocity Agreements (SARA). This oversight ensures compliance with applicable state and federal laws, promotes quality standards, and protects students through coordinated authorization processes.

(b) This subchapter applies to private or independent institutions of higher education and private postsecondary educational institutions.

*§7.211. Author.*

This subchapter is adopted under the authority of Texas Education Code, §61.05121, which authorizes the Coordinating Board to manage the state's participation in SARA and to oversee compliance by participating institutions. The Coordinating Board is designated as the State Portal Entity (SPE) and will identify Coordinating Board staff to act as the SPE contact and SPE signatory.

*§7.212. Eligibility Criteria.*

(a) A private or independent institution of higher education or a private postsecondary educational institution, is eligible to apply for participation in SARA if its principal campus is located in Texas. Texas is considered the home state for these institutions.

(b) All distance education offered under SARA must originate from within the United States or a U.S. territory.

(c) The institution shall be accredited by an accrediting agency recognized by both the U.S. Department of Education and the Texas Higher Education Coordinating Board.

*§7.213. Admission to SARA.*

(a) Eligible institutions may apply to the Texas Higher Education Coordinating Board for participation in SARA.

(1) The application shall be signed by the institution's chief academic officer or chief executive officer and sent to the Coordinating Board, using the current institution application provided by NC-SARA to SARA institutional applicants.

(2) The institution shall pay the annual NC-SARA fee. This fee replaces individual state fees for SARA member states. Institutions shall still pay fees required by non-SARA states if offering distance education.

(3) The Coordinating Board shall review each application and determine whether to approve or deny participation based on state authorization requirements and SARA policy requirements.

(b) An institution participating in SARA is required to:

(1) Agree to follow principles of best practice for distance education in Subchapter M of this chapter (relating to Distance Education Approval for Degree-granting Educational Institutions);

(2) Accept responsibility for the actions of any third-party providers used in SARA-related activities;

(3) Notify the Coordinating Board of any adverse changes to its accreditation status;

(4) Provide data requested by the Coordinating Board;

(5) Cooperate with the Coordinating Board in resolving student complaints from other states and comply with the final resolution issued by the appropriate authority;

(6) Require students to follow the institution's internal complaint process before escalating to the Coordinating Board. Grade and conduct appeals are resolved solely at the institutional level;

(7) Inform students in programs that may lead to licensure whether the program meets licensure requirements in the student's state of residence. The institution must meet state, federal, and SARA policy requirements in notifying students of professional licensure eligibility.

(8) Offer a reasonable alternative or financial compensation if it cannot fully deliver the instruction for which a student has paid.

*§7.214. Denial for SARA Participation.*

(a) If the Coordinating Board denies an application to participate in SARA, the institution shall receive the denial via the SARA action and information page on the current SARA institutional application. The Coordinating Board shall provide a written explanation of the SARA policy requirements not met.

(b) Appeals of application denials shall be submitted within thirty calendar days to the Coordinating Board, who will issue a final decision.

(c) If the denial is upheld by the Coordinating Board, the Coordinating Board's decision is final, but the institution may appeal to the Southern Regional Education Board (SREB) to determine whether the Coordinating Board followed SARA procedures.

*§7.215. Maintaining SARA Participation Eligibility.*

(a) To remain eligible for participation in SARA, an institution shall:

(1) Submit a renewal application to the Coordinating Board each year and pay all required SARA fees.

(2) Continue to meet all SARA eligibility standards, including accreditation and compliance with applicable laws and guidelines.

(3) Be subject to review by Coordinating Board at the time of renewal to confirm continued compliance.

(b) Institutions may be removed from SARA participation at any time if found in violation of SARA standards or requirements.

*§7.216. Complaint Resolution.*

(a) Institutions participating in SARA shall clearly publish and make available their student complaint resolution policies and procedures, including providing information regarding the Coordinating Board's student complaint procedures and NC-SARA's complaint procedures.

(b) A student complaint related to distance education under SARA shall first be addressed through the institution's internal complaint process.

(c) If the student complainant is not satisfied with the institution's resolution, a student may file a complaint appeal with the Texas Higher Education Coordinating Board within two years of the incident.

(d) The Coordinating Board shall review the complaint appeal, determine an appropriate resolution, and notify both the complainant and the institution of the outcome.

*§7.217. Out-of-State SARA Participants.*

(a) The Coordinating Board serves as the primary point of contact for all SARA-related matters involving institutions based in other member states. Texas is considered the host state for these institutions.

(b) If an out-of-state SARA institution offers courses in Texas and appears to violate SARA policies or Texas general-purpose criminal or consumer protection laws, the Coordinating Board may take appropriate action.

(c) Out-of-state SARA participants shall be limited to no more than ten students from an individual academic program placed simultaneously at one clinical or practicum experiential learning site.

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

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# CHAPTER 13. FINANCIAL PLANNING
# SUBCHAPTER G. TUITION AND FEES

## 19 TAC §13.129

The Texas Higher Education Coordinating Board (Coordinating Board) proposes amendments to Texas Administrative Code, Title 19, Part 1, Chapter 13, Subchapter G, §13.129, concerning Refund of Tuition and Mandatory Fees at Public Junior Colleges, State Colleges, and Technical Institute.

The Coordinating Board is authorized by Texas Education Code, §130.009, to adopt rules relating to the uniform dates for adding or dropping a course.

Rule §13.129, Refund of Tuition and Mandatory Fees at Public Junior Colleges, State Colleges, and Technical Institute, is amended to provide additional clarity regarding the specific institutions that are subject to the rule and is retitled accordingly.

Andy MacLaurin, Assistant Commissioner for Funding and Financial Aid, has determined that for each of the first five years the section is in effect there would be no fiscal implications for state or local governments as a result of enforcing or administering the rule. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rule. There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rule.

There is no impact on small businesses, micro businesses, and rural communities. There is no anticipated impact on local employment.

Andy MacLaurin, Assistant Commissioner for Funding and Financial Aid, has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be the alignment between statute and agency rules. There are no anticipated economic costs to persons who are required to comply with the section as proposed.

Government Growth Impact Statement

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

(2) implementation of the rule will not require the creation or elimination of employee positions;

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

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

(5) the rule will not create a new rule;

(6) the rule will not limit an existing rule;

(7) the rule will not change the number of individuals subject to the rule; and

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

Comments on the proposed rule or information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research or analysis, may be submitted to Andy MacLaurin, Assistant Commissioner for Funding and Financial Aid, P.O. Box 12788, Austin, Texas 78711-2788, or via email at SFAPPolicy@highered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The amendment is proposed under Texas Education Code, Section 130.009, which provides the Coordinating Board with the authority to adopt rules relating to the uniform dates for adding or dropping a course.

The proposed amendment affects Texas Administrative Code, Title 19, Part 1, Chapter 13, Subchapter G.

*§13.129. Refund of Tuition and Mandatory Fees at Public Junior Colleges[, ~~State Colleges,~~] and Certain Technical Institutes [~~Institute~~].*

(a) Authority. Authority for this section is Texas Education Code, §130.009.

(b) Applicability and Refund Schedule. This section applies only to [~~A~~] public junior colleges, as defined in §13.1 of this chapter (relating to Definitions), the Lamar Institute of Technology, and the Texas State Technical College System, collectively and herein "affected institutions." [~~college, public state college, or public technical institute, collectively public two-year college as defined in §13.1(29) of this chapter (relating to Definitions),~~] As [~~as~~] soon as practicable, affected institutions shall at a minimum refund tuition and mandatory fees in excess of the minimum tuition collected for courses from which the students drop or withdraw, according to the schedule provided in the Figure: 19 TAC §13.129(b).
Figure: 19 TAC §13.129(b) (No change.)

(1) An affected institution [~~A public two-year college~~] shall use the definition of "class day" in §13.1 of this chapter in applying the provisions of this subsection.

(2) An affected institution [~~A public two-year college~~] shall apply the percentages indicated in the Figure: 19 TAC §13.129(b) to the tuition and mandatory fees collected for each course from which the student is withdrawing.

(3) An affected institution [~~A public two-year college~~] may not delay a refund on the grounds that the student may withdraw from the affected institution [~~public two-year college~~] later in the semester or term.

(c) Prior to the census date, an affected institution [~~a public two-year college~~] may allow hours to be dropped and re-added without penalty to the student if the exchange is an equal one. When the charges for dropped hours are greater than for the hours added, the affected institution [~~public two-year college~~] shall apply the refund policy outlined in subsection (b) of this section for the net charges being dropped. If the charges for hours being added exceed the charges for hours being dropped, the student must pay the net additional charges.

(d) An affected institution [~~A public two-year college~~] shall refund tuition and mandatory fees paid by a sponsor, donor, or scholarship to the source rather than directly to the student who has withdrawn if the funds were made available through the affected institution [~~public two-year college~~].

(e) If a student withdraws because the student is called into active military service, the affected institution [~~public two-year college~~], at the student's option, shall:

(1) refund the tuition and fees paid by the student for the semester in which the student withdraws;

(2) grant a student, who is eligible under the affected institution's [~~public two-year college's~~] guidelines, an incomplete grade in all courses by designating "withdrawn-military" on the student's transcript; or

(3) as determined by the instructor, assign an appropriate final grade or credit to a student who has satisfactorily completed a substantial amount of course work and who has demonstrated sufficient mastery of the course material.

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

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## SUBCHAPTER P. TUITION EXEMPTIONS AND WAIVERS

### 19 TAC §13.472

The Texas Higher Education Coordinating Board (Coordinating Board) proposes amendments to Texas Administrative Code, Title 19, Part 1, Chapter 13, Subchapter P, §13.472, concerning Educational Aide Exemption. Specifically, this amendment will clarify the manner by which the Coordinating Board will disburse and re-allocate, as applicable, allocated funds for the program. The Coordinating Board convened a negotiated rulemaking committee to consider the proposed amendments to the rule. The committee reached a general consensus on the proposal, and the proposed rule substantively reflects the committee's determinations. The Coordinating Board will make reports of negotiated rulemaking committees available upon request.

The Coordinating Board is authorized by Texas Education Code, §54.363, to adopt rules relating to the exemption.

Rule 13.472, Educational Aide Exemption, is amended by adding subsection (i), which describes by reference to §22.12 and §22.13 the method by which the Coordinating Board will disburse and re-allocate funding for this exemption to participating institutions.

Andy MacLaurin, Assistant Commissioner for Funding and Financial Aid, has determined that for each of the first five years the section is in effect there would be no fiscal implications for state or local governments as a result of enforcing or administering the rule. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rule. There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rule.

There is no impact on small businesses, micro businesses, and rural communities. There is no anticipated impact on local employment.

Andy MacLaurin, Assistant Commissioner for Funding and Financial Aid, has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be the improved transparency regarding the disbursement and re-allocation of state financial aid funding. There are no anticipated economic costs to persons who are required to comply with the section as proposed.

Government Growth Impact Statement

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

(2) implementation of the rule will not require the creation or elimination of employee positions;

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

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

(5) the rule will not create a new rule;

(6) the rule will not limit an existing rule;

(7) the rule will not change the number of individuals subject to the rule; and

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

Comments on the proposed rule or information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research or analysis, may be submitted to Andy MacLaurin, Assistant Commissioner for Funding and Financial Aid, P.O. Box 12788, Austin, Texas 78711-2788, or via email at SFAPPolicy@highered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The amendment is proposed under Texas Education Code, Section 54.363, which provides the Coordinating Board with the authority to adopt rules relating to the exemption.

The proposed amendment affects Texas Administrative Code, Title 19, Part 1, Chapter 13, Subchapter P.

*§13.472. Educational Aide Exemption.*

(a) Authority. Authority for this section is provided in the Texas Education Code, §54.363.

(b) Definitions. In addition to the words and terms defined in §13.460 of this subchapter (relating to Definitions), the following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise:

(1) Educational Aide--A person who has been employed by a public school district in Texas in a teaching capacity working in the classroom directly with the students for at least one year on a full-time basis. It may include substitute teachers who have been employed by a public school district in Texas for 180 or more full days in a teaching capacity working in the classroom directly with students.

(2) Program--The Educational Aide Exemption Program.

(c) Eligible Institutions.

(1) Eligibility. Any institution of higher education, as defined in §13.1 of this chapter (relating to Definitions), is eligible to participate in the Program.

(2) Participation.

(A) Agreement. Each eligible institution must enter into an agreement with the Board, the terms of which shall be prescribed by the Commissioner, prior to indicating its intent to participate in the program.

(B) Intent to Participate. Subject to subsection (c)(2)(A), to receive an allocation for the forthcoming fiscal year, an eligible institution must indicate its intent to participate in the program in the applicable year in the manner prescribed and by the deadline established by the Coordinating Board.

(3) A participating institution shall offer an exemption under this section to a student meeting the eligibility requirements established in subsection (e) of this section, except that an institution is not required to offer exemptions beyond those funded through appropriations specifically designated for this purpose. An institution may establish criteria by which applicants are prioritized if appropriated funds are insufficient to offer an exemption to all eligible students for a given term.

(4) A participating institution shall use institutional matching funds to cover at least 10 percent of each recipient's exemption.

(d) Institutional Responsibilities. Institutions participating in the Program shall disburse funds in accordance with §22.2 of this title (relating to Timely Disbursement of Funds), retain records in accordance with §22.4 of this title (relating to Records Retention) and comply with the provisions of §22.9 of this title (relating to Institutional Responsibilities) with respect to the Program.

(e) Eligible Students. To be eligible to receive an exemption under this section, a student must:

(1) Submit a completed application for an exemption to the student's institution;

(2) Be a Resident of Texas, as defined in §22.1 of this title (relating to Definitions);

(3) Have met the definition of Educational Aide established in subsection (b) of this section at some time during the last five years preceding the term or semester for which the student would receive an initial exemption;

(4) Be employed in any capacity by a school district or open-enrollment charter school in Texas during the full term for which the student would receive the exemption;

(5) Show financial need, as defined in §13.460 of this subchapter;

(6) be enrolled at an eligible institution in courses required for teacher certification in one or more subject areas determined by the Commissioner of Education to be experiencing a critical shortage at the public schools of this state;

(7) meet the satisfactory academic progress requirements described by §13.463 of this subchapter (relating to Satisfactory Academic Progress) unless granted a hardship waiver by the institution in accordance with §13.464 of this subchapter (relating to Hardship Provisions); and

(8) meet applicable standards outlined in §22.3 of this title (relating to Student Compliance with Selective Service Registration).

(f) Notwithstanding subsection (e)(6) of this section, a student who previously received an exemption under this section remains [~~remain~~] eligible if the student:

(1) is enrolled at an eligible institution in courses required for teacher certification; and

(2) meets the eligibility requirements of subsection (e) of this section other than the requirement in subsection (e)(6).

(g) Exemption Amount. A student receiving an exemption under this section is exempt from the payment of resident tuition and required fees, other than laboratory and class fees, taken during the relevant term.

(h) Allocations. Allocations are to be determined on an annual basis as follows:

(1) All eligible institutions will be invited annually to participate in the program allocation process, as described by subsection (c)(2)(B) of this section.

(2) The annual appropriation will be divided equally between all participating institutions.

(3) Allocation calculations will be shared with all eligible institutions for comment prior to final posting. Institutions will be given 10 business days, beginning the day of the notice's distribution and excluding state holidays, to confirm their interest in participating in the program.

(i) Funds allocated to an institution under this section shall be disbursed and re-allocated, as applicable, in accordance with the provisions of §22.12 (relating to Disbursement of Allocated Funds) and §22.13 of this title (relating to Allocation Carry-Forward; Supplemental Allocations).

(j) [~~(i)~~] Exemption from Student Teaching. A person who has not previously received a baccalaureate degree and who receives a baccalaureate degree required for a teaching certificate on the basis of coursework completed while receiving an exemption under this section may not be required to participate in any field experience of internship consisting of student teaching to receive a teaching certificate.

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

Filed with the Office of the Secretary of State on July 23, 2026.

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Texas Higher Education Coordinating Board
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# CHAPTER 22. STUDENT FINANCIAL AID PROGRAMS

## SUBCHAPTER A. GENERAL PROVISIONS

### 19 TAC §§22.1, 22.8, 22.11

The Texas Higher Education Coordinating Board (Coordinating Board) proposes amendments to Texas Administrative Code, Title 19, Part 1, Chapter 22, Subchapter A, §§22.1, 22.8, and 22.11, concerning General Provisions. Specifically, these amendments will create an alternative method of calculating financial need for certain students and establish additional procedures relating to institutions' authority to transfer limited

amounts of allocated funds between certain financial aid programs.

The Coordinating Board is authorized by Texas Education Code, §56.0035, to adopt rules to carry out the purposes of that chapter.

Rule 22.1, Definitions, is amended by adding a new definition for "full-time, full-year cost of attendance" and amending the definition of "financial need." A student's Student Aid Index (SAI) is the output of the Free Application for Federal Student Aid (FAFSA) form and approximates a student's means for financing his/her own higher education. Most state financial aid programs are based upon the concept "financial need," which is calculated by subtracting a student's SAI from his/her cost of attendance (COA). When financial need is positive, a student becomes eligible for need-based aid and typically can receive funds up to that need amount.

However, the recent federal FAFSA Simplification Act eliminated institutions' ability to prorate a student's SAI, which previously was common practice, most notably for students who intend to graduate early (i.e., at the end of the fall semester in a typical academic year). For these students, cost of attendance is prorated due to their shortened enrollment in the academic year. Accordingly, these students, whose economic circumstances have not changed have been made ineligible for state aid with no change in state policy.

The amendments to this section allow for an alternative calculation of financial need for students who will not be enrolled for the entire academic year. Rather than using the student's actual cost of attendance, an institution may instead use the newly created "full-time, full-year cost of attendance," which is the basis for the calculation of a student's eligibility for the federal Pell Grant program. This change will allow for these students to be assessed for state aid eligibility on an equal basis to their peers.

Rule 22.8, Financial Aid Adjustments, is amended to describe situations in which an "over award" (a situation in which a student's total financial assistance exceeds the amount for which they are eligible) occurs for the student whose financial need is calculated using the full-time, full-year cost of attendance. For these students, an over award occurs if the student's total financial assistance exceeds either the student's actual cost of attendance (i.e., not the student's full-time, full-year cost of attendance) or, in a given semester, one-half of the student's financial need. This ensures that the alternative calculation of financial need, which is intended to ensure impacted students are assessed on an equal basis, does not create an advantage for those students with regard to their state aid eligibility.

Rule 22.11, Authority to Transfer Funds, is amended to create subsection (c), which establishes the circumstances in which the Coordinating Board may reverse all or part of a transfer. With the proposed addition of §22.13, which sets limits on the amount of unencumbered funds an institution may carry forward from the first to the second year of a biennium and establishes procedures for supplemental allocations using unencumbered funds in excess of that limit, subsection (c) ensures that unencumbered transferred funds are restored to their original funding source. Although this provision was considered outside the scope of the negotiated rulemaking committee convened by the Coordinating Board to consider proposed rule amendments regarding carry-forward provisions and supplemental allocations, it does reflect the committee's consensus view that the original funding source should dictate the supplemental allocation through which unencumbered funds should be distributed.

Andy MacLaurin, Assistant Commissioner for Funding and Financial Aid, has determined that for each of the first five years the sections are in effect there would be no fiscal implications for state or local governments as a result of enforcing or administering the rules. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rules. There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rules.

There is no impact on small businesses, micro businesses, and rural communities. There is no anticipated impact on local employment.

Andy MacLaurin, Assistant Commissioner for Funding and Financial Aid, has also determined that for each year of the first five years the sections are in effect, the public benefit anticipated as a result of administering the sections will be the consistent application of financial aid rules in light of changes in federal policy, as well as improved clarity and alignment regarding institutions' financial management of state financial aid funds. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

Government Growth Impact Statement

(1) the rules will not create or eliminate a government program;

(2) implementation of the rules will not require the creation or elimination of employee positions;

(3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;

(4) the rules will not require an increase or decrease in fees paid to the agency;

(5) the rules will not create a new rule;

(6) the rules will not limit an existing rule;

(7) the rules will not change the number of individuals subject to the rule; and

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

Comments on the proposed rules or information related to the cost, benefit, or effect of the proposed rules, including any applicable data, research or analysis, may be submitted to Andy MacLaurin, Assistant Commissioner for Funding and Financial Aid, P.O. Box 12788, Austin, Texas 78711-2788, or via email at SFAPPolicy@highered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The amendments are proposed under Texas Education Code, Section 56.0035, which provides the Coordinating Board with the authority to adopt rules to carry out the purposes of that chapter.

The proposed amendments affect Texas Administrative Code, Title 19, Part 1, Chapter 22, Subchapter A.

*§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) Federal Pell Grant Student Aid Index Cap or Federal Pell Grant Eligibility Cap--The maximum Pell Grant amount allowed under federal law in a given fiscal year.

(15) 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. For the purposes of verifying student eligibility and calculating financial aid amounts for programs under this chapter, an institution may calculate the financial need of a student who will not be enrolled for the entire academic year using the student's full-time, full-year cost of attendance, as defined in this section, subject to the limitations described in §22.8(b)(1)(B) of this subchapter (relating to Financial Aid Adjustments).

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

(17) 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.

(18) Full-Time, Full-Year Cost of Attendance--A student's cost of attendance, as defined in this section, calculated in a manner consistent with determining a student's annual award in the federal Pell Grant Program, as defined in 34 C.F.R. 690.2, based on full-time enrollment for a full academic year.

(19) [~~(18)~~] General Academic Teaching Institution--As defined in Texas Education Code, §61.003.

(20) [~~(19)~~] 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.

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

(22) [~~(21)~~] 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.

(23) [~~(22)~~] Institution of Higher Education--As defined by Texas Education Code, §61.003.

(24) [~~(23)~~] Medical or Dental Unit--As defined by Texas Education Code, §61.003.

(25) [~~(24)~~] 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.

(26) [~~(25)~~] Private or Independent Institution of Higher Education--As defined by Texas Education Code, §61.003.

(27) [~~(26)~~] 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.

(28) [~~(27)~~] Public Junior College--As defined by Texas Education Code, §61.003.

(29) [~~(28)~~] Public State College--As defined by Texas Education Code, §61.003.

(30) [~~(29)~~] Public Technical Institute--As defined by Texas Education Code, §61.003.

(31) [~~(30)~~] Resident of Texas--A resident of the State of Texas as determined in accordance with chapter 13, subchapter K, of this title (relating to Determination of Resident Status). Nonresident students who are eligible to pay resident tuition rates are not residents of Texas.

(32) [~~(31)~~] Semester--A payment period, as defined by 34 CFR 668.4(a) or 34 CFR 668.4(b)(1).

(33) [~~(32)~~] 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.

(34) [~~(33)~~] 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.

(35) [~~(34)~~] 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.

(36) [~~(35)~~] Undergraduate Student--An individual who has not yet received a baccalaureate degree.

*§22.8. Financial Aid Adjustments.*

(a) Withdrawal from Enrollment.

(1) Gift Aid. If a student officially withdraws from enrollment, then the institution shall reduce the student's gift aid by the same percentage by which the student's tuition has been reduced per the institution's general institutional refund policy.

(2) Loans. If a student officially withdraws from enrollment, the institution shall recalculate the student's cost of attendance to determine whether an adjustment to the student's state-funded loan aid is warranted.

(3) If the student withdraws or drops classes after the end of the institution's refund period, no refunds are due to the program(s) from which the student received financial assistance.

(b) Over Awards.

(1) An over award occurs when:

(A) a student's total financial assistance (including the student's state-funded and additional financial assistance) exceeds his/her financial need; or

(B) for students whose financial need was calculated using the student's full-time, full-year cost of attendance, as defined in §22.1 of this subchapter (relating to Definitions), a student's total financial assistance (including the student's state-funded and additional financial assistance) exceeds either:

*(i)* the student's cost of attendance, as defined in §22.1 of this subchapter; or

*(ii)* in any semester, one-half of the student's financial need.

(2) If an over award occurs, the institution shall resolve the over award by recalculating the student's amount of state-funded financial assistance in accordance with the institution's procedures, except the institution is not required to recalculate the student's financial aid if:

(A) the over award occurred after state-funded financial assistance has been disbursed because the student received additional financial assistance that was not factored into the institution's estimate of his/her financial need; and

(B) the student's total financial assistance exceeds his/her need by $300 or less.

(c) Ineligibility.

(1) If an institution determines that a student is ineligible for financial assistance from one or more programs in this chapter after receiving financial assistance from the program(s), the institution shall adjust the student's financial aid in accordance with the institution's procedures to either resolve the eligibility issue or remove the student from the program(s).

(2) An institution may distribute gift aid funds for which a student has been deemed ineligible to a different eligible student or return the funds to the Coordinating Board in accordance with §22.2(a)(2) of this subchapter (relating to Timely Distribution of Funds).

(d) If, for some reason not already specified in this section, the amount of a student's disbursement exceeds the amount the student is eligible to receive, the institution shall recalculate the student's financial aid accordingly.

*§22.11. Authority to Transfer Funds.*

(a) An institution participating in two or more of the following programs: Toward EXcellence, Access and Success Grant, Texas Educational Opportunity Grant, Tuition Equalization Grant, and Texas College Work-Study Programs, in accordance with instructions from the Coordinating Board, may transfer current fiscal year funds up to the lesser of 25 percent or $60,000 between these programs. This threshold applies to the program from which the funds are transferred.

(b) An institution shall submit a request for transfer under subsection (a) of this section by the annual deadline published by the Coordinating Board, and the transfer must occur by July 1 of the current fiscal year.

(c) If an institution transfers funds under this section in the first year of the biennium and, after the deadline described in §22.12(c) of this subchapter (relating to Disbursement of Allocated Funds), the program to which funds are transferred has unencumbered funds, the Coordinating Board shall reverse all or a portion of the transfer in an amount equal to the lesser of:

(1) The amount of unencumbered funds in the program to which funds were transferred; or

(2) The amount transferred.

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

Filed with the Office of the Secretary of State on July 23, 2026.

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Douglas Brock
General Counsel
Texas Higher Education Coordinating Board
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For further information, please call: (512) 427-6495

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**19 TAC §22.12, §22.13**

The Texas Higher Education Coordinating Board (Coordinating Board) proposes new rules in Texas Administrative Code, Title 19, Part 1, Chapter 22, Subchapter A, §22.12 and §22.13, concerning General Provisions. Specifically, these new sections will consolidate existing rules relating to the disbursement of allocated funds, establish new limitations on how allocated funds are carried forward within a legislative biennium, and codify Coordinating Board procedures relating to supplemental allocations. The Coordinating Board convened a negotiated rulemaking committee to consider the proposed rules. The committee reached a general consensus on the proposal, and the proposed rules substantively reflects the committee's determinations. The Coordinating Board will make reports of negotiated rulemaking committees available upon request.

The Coordinating Board is authorized by Texas Education Code, §56.0035 to adopt rules necessary to carry out the purposes of that chapter.

Rule 22.12, Disbursement of Allocated Funds, is created. The rule is substantively similar to rules that currently exist within the individual subchapters of applicable programs. Subsection (a) describes the rule's applicability. Subsection (b) describes the current process by which institutions encumber allocated funds by requesting them from the Coordinating Board and disburse them timely to eligible students. Subsection (c) describes how unencumbered funds are treated after the August 1 deadline to encumber funds each fiscal year; in the first year of the biennium, they are managed in accordance with §22.13, and in the second year of the biennium, they are made available to the Coordinating Board for utilization in financial aid processing.

Rule 22.13, Allocation Carry-Forward; Supplemental Allocation, is created. The rule describes how unencumbered funds in the first year of a legislative biennium are treated and re-allocated, as applicable. Subsection (a) describes the rule's applicability. Subsection (b) limits an institution's ability to carry funds forward from the first to the second year of the biennium to 10 percent of the institution's allocation for that program in the first year of the biennium. Under current rule, this carry-forward provision is unlimited. This has created situations in which an institution, for whatever reason, has difficulty using its full allocation in the first year of the biennium, resulting in a sizeable amount being carried forward to the next year. The institution is then unable to use its second-year allocation plus the sizeable carry-forward, and the funds return to the Coordinating Board in accordance with program rules. By the time these funds are returned to the Coordinating Board, however, it is too late to reallocate the funds to other institutions, and the funds are lapsed. The new 10-percent limit allows for strategic applications of the carry-forward provision (e.g. known increases in enrollment, compensating for year-over-year allocation variability, etc.) while limiting potential inefficiencies.

Subsection (c) specifies that funds in excess of the 10-percent limit on carry forwards are returned to the Coordinating Board for use in a supplemental allocation. Subsection (d) describes the supplemental allocation process, which will begin with institutions electing whether to receive a supplemental allocation. Following that election process, the Coordinating Board will conduct the supplemental allocation using each program's same allocation methodology, excluding any institutions that elected not to receive supplemental funds.

Andy MacLaurin, Assistant Commissioner for Funding and Financial Aid, has determined that for each of the first five years the sections are in effect there would be no fiscal implications for state or local governments as a result of enforcing or administering the rules. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rules. There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rules.

There is no impact on small businesses, micro businesses, and rural communities. There is no anticipated impact on local employment.

Andy MacLaurin, Assistant Commissioner for Funding and Financial Aid, has also determined that for each year of the first five years the sections are in effect, the public benefit anticipated as a result of administering the sections will be the improved efficiency in administration of state financial aid programs. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

Government Growth Impact Statement

(1) the rules will not create or eliminate a government program;

(2) implementation of the rules will not require the creation or elimination of employee positions;

(3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;

(4) the rules will not require an increase or decrease in fees paid to the agency;

(5) the rules will not create a new rule;

(6) the rules will not limit an existing rule;

(7) the rules will not change the number of individuals subject to the rule; and

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

Comments on the proposed rules or information related to the cost, benefit, or effect of the proposed rules, including any applicable data, research or analysis, may be submitted to Andy MacLaurin, Assistant Commissioner for Funding and Financial Aid, P.O. Box 12788, Austin, Texas 78711-2788, or via email at SFAPPolicy@highered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The new sections are proposed under Texas Education Code, Section 56.0035, which provides the Coordinating Board with the authority to adopt rules necessary to carry out the purposes of that chapter.

The proposed new sections affect Texas Administrative Code, Title 19, Part 1, Chapter 22, Subchapter A.

*§22.12. Disbursement of Allocated Funds.*

(a) Applicability. Unless otherwise specified, the provisions of this section apply to any financial aid program administered under Chapter 13, Subchapter P (relating to Tuition Exemptions and Waivers) or Chapter 22 (relating to Student Financial Aid Programs) of this title for which the Coordinating Board allocates appropriated funds to participating institutions, except that the provisions of this section do not apply to the programs administered under Subchapter N (relating to Texas Leadership Scholars Program) or Subchapter O (relating to Texas Leadership Research Scholars Program) of this chapter.

(b) Upon request by an institution throughout the academic year, the Coordinating Board shall forward to each participating institution a portion of its allocation of funds for a program for timely

disbursement to students in accordance with §22.2 of this subchapter (relating to Timely Distribution of Funds). Pursuant to §22.1 of this subchapter (relating to Definitions), funds that are officially requested by an institution in accordance with Coordinating Board Procedures are considered encumbered.

(c) An institution will have until the close of business on August 1, or the first working day thereafter if it falls on a weekend or holiday, to encumber program funds for the current fiscal year from their allocation for each applicable program. After that date, an institution may not encumber any additional funds in the current fiscal year.

(1) Unencumbered funds in the first year of the biennium shall be managed in accordance with the provisions of §22.13 of this subchapter (relating to Allocation Carry-Forward; Supplemental Allocations).

(2) Unencumbered funds in the second year of the biennium become available to the Coordinating Board for utilization in financial aid processing.

*§22.13. Allocation Carry-Forward; Supplemental Allocations.*

(a) Applicability. Unless otherwise specified, the provisions of this section apply to any financial aid program administered under Chapter 13, Subchapter P (relating to Tuition Exemptions and Waivers) or Chapter 22 (relating to Student Financial Aid Programs) of this title for which the Coordinating Board allocates appropriated funds to participating institutions, except that the provisions of this section do not apply to the programs administered under Subchapter N (relating to Texas Leadership Scholars Program) or Subchapter O (relating to Texas Leadership Research Scholars Program) of this chapter.

(b) Carry-Forward. Unless otherwise specified in the General Appropriations Act, unencumbered funds under §22.12(c) of this subchapter (relating to Disbursement of Allocated Funds) from the first year of the biennium shall be carried forward for use in the same program during the second year of the biennium, in an amount not to exceed 10 percent of the institution's allocation for the respective program for the first year of the biennium.

(c) Any unencumbered funds in excess of 10 percent of the institution's allocation for the first year of the biennium shall become available to the Coordinating Board for use in a supplemental allocation under subsection (d) of this section.

(d) Supplemental Allocation.

(1) During the fall semester of the second year of the biennium, the Coordinating Board shall conduct a supplemental allocation using funds made available to Coordinating Board under subsection (c) of this section, in addition to any other funds identified for this purpose.

(2) Prior to conducting a supplemental allocation for a program under this section, the Coordinating Board shall allow participating institutions in that program to elect whether they would like to receive a supplemental allocation for that program.

(3) The Coordinating Board shall conduct a supplemental allocation for a program using the allocation methodology outlined in the respective program's rules, except that institutions that elect not to receive a supplemental allocation under paragraph (2) of this subsection shall be excluded from the calculation.

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

Filed with the Office of the Secretary of State on July 23, 2026.

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Douglas Brock
General Counsel
Texas Higher Education Coordinating Board
Earliest possible date of adoption: September 6, 2026
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## SUBCHAPTER B. TUITION EQUALIZATION GRANT PROGRAM

### 19 TAC §22.30

The Texas Higher Education Coordinating Board (Coordinating Board) proposes amendments to Texas Administrative Code, Title 19, Part 1, Chapter 22, Subchapter B, §22.30, concerning Disbursement of Funds. Specifically, this amendment will clarify the manner by which the Coordinating Board will disburse and re-allocate, as applicable, allocated funds for the Program. The Coordinating Board convened a negotiated rulemaking committee to consider the proposed amendments to the rule. The committee reached a general consensus on the proposal, and the proposed rule substantively reflects the committee's determinations. The Coordinating Board will make reports of negotiated rulemaking committees available upon request.

The Coordinating Board is authorized by Texas Education Code, §61.229, to adopt rules relating to the Program.

Rule 22.30, Disbursement of Funds, is amended by replacing existing rule text with references to §22.12 and §22.13 to describe the method by which the Coordinating Board will disburse and re-allocate funding for this program to participating institutions.

Andy MacLaurin, Assistant Commissioner for Funding and Financial Aid, has determined that for each of the first five years the section is in effect, there would be no fiscal implications for state or local governments as a result of enforcing or administering the rule. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rule. There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rule.

There is no impact on small businesses, micro businesses, and rural communities. There is no anticipated impact on local employment.

Andy MacLaurin, Assistant Commissioner for Funding and Financial Aid, has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be the improved transparency regarding the disbursement and re-allocation of state financial aid funding. There are no anticipated economic costs to persons who are required to comply with the section as proposed.

Government Growth Impact Statement

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

(2) implementation of the rule will not require the creation or elimination of employee positions;

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

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

(5) the rule will not create a new rule;

(6) the rule will not limit an existing rule;

(7) the rule will not change the number of individuals subject to the rule; and

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

Comments on the proposed rule or information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research or analysis, may be submitted to Andy MacLaurin, Assistant Commissioner for Funding and Financial Aid, P.O. Box 12788, Austin, Texas 78711-2788, or via email at SFAPPolicy@highered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The amendment is proposed under Texas Education Code, Section 61.229, which provides the Coordinating Board with the authority to adopt rules relating to the Program.

The proposed amendment affects Texas Administrative Code, Title 19, Part 1, Chapter 22, Subchapter B.

*§22.30. Disbursement of Funds.*

Funds allocated to an institution under this subchapter shall be disbursed and re-allocated, as applicable, in accordance with the provisions of §22.12 (relating to Disbursement of Allocated Funds) and §22.13 of this chapter (relating to Allocation Carry-Forward; Supplemental Allocations). [~~As requested by institutions throughout the academic year, the Coordinating Board shall forward to each participating institution a portion of its allocation of funds for timely disbursement to students in accordance with §22.2 of this chapter (relating to Timely Distribution of Funds). Institutions will have until the close of business on August 1, or the first working day thereafter if it falls on a weekend or holiday, to encumber program funds from their allocation. After that date, institutions lose claim to any funds in the current fiscal year not yet drawn down from the Coordinating Board for timely disbursement to students. Funds released in this manner in the first year of the biennium become available to the institution for use in the second year of the biennium. Funds released in this manner in the second year of the biennium become available to the Board's program for utilization in grant processing. Should these unspent funds result in additional funding available for the next biennium's program, revised allocations, calculated according to the allocation methodology specified in §22.29 of this subchapter (relating to Allocation of Funds), will be issued to participating institutions during the fall semester.~~]

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

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Douglas Brock
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## SUBCHAPTER G. TEXAS COLLEGE WORK-STUDY PROGRAM

### 19 TAC §22.135

The Texas Higher Education Coordinating Board (Coordinating Board) proposes amendments to Texas Administrative Code, Title 19, Part 1, Chapter 22, Subchapter G, §22.135, concerning Disbursement of Funds. Specifically, this amendment will clarify the manner by which the Coordinating Board will disburse and re-allocate, as applicable, allocated funds for the Program. The Coordinating Board convened a negotiated rulemaking committee to consider the proposed amendments to the rule. The committee reached a general consensus on the proposal, and the proposed rule substantively reflects the committee's determinations. The Coordinating Board will make reports of negotiated rulemaking committees available upon request.

The Coordinating Board is authorized by Texas Education Code, §56.077, to adopt rules relating to the Program.

Rule 22.135, Disbursement of Funds, is amended by replacing existing rule text with references to §22.12 and §22.13 to describe the method by which the Coordinating Board will disburse and re-allocate funding for this program to participating institutions.

Andy MacLaurin, Assistant Commissioner for Funding and Financial Aid, has determined that for each of the first five years the section is in effect there would be no fiscal implications for state or local governments as a result of enforcing or administering the rule. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rule. There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rule.

There is no impact on small businesses, micro businesses, and rural communities. There is no anticipated impact on local employment.

Andy MacLaurin, Assistant Commissioner for Funding and Financial Aid, has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be the improved transparency regarding the disbursement and re-allocation of state financial aid funding. There are no anticipated economic costs to persons who are required to comply with the section as proposed.

Government Growth Impact Statement

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

(2) implementation of the rule will not require the creation or elimination of employee positions;

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

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

(5) the rule will not create a new rule;

(6) the rule will not limit an existing rule;

(7) the rule will not change the number of individuals subject to the rule; and

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

Comments on the proposed rule or information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research or analysis, may be submitted to Andy MacLaurin, Assistant Commissioner for Funding and Financial Aid, P.O. Box 12788, Austin, Texas 78711-2788, or via email at

SFAPPolicy@highered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register.*

The amendment is proposed under Texas Education Code, Section 56.077, which provides the Coordinating Board with the authority to adopt rules relating to the Program.

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

*§22.135. Disbursement of Funds.*

Funds allocated to an institution under this subchapter shall be disbursed and re-allocated, as applicable, in accordance with the provisions of §22.12 (relating to Disbursement of Allocated Funds) and §22.13 of this chapter (relating to Allocation Carry-Forward; Supplemental Allocations).

~~[(a) As requested by institutions throughout the academic year, the Coordinating Board shall forward to each participating institution a portion of its allocation of funds for timely disbursement to students.]~~

~~[(b) Institutions will have until the close of business on August 1, or the first working day thereafter if it falls on a weekend or holiday, to encumber program funds from their allocation for timely disbursement to students. After that date, institutions lose claim to any funds in the current fiscal year not yet drawn down from the Board for timely disbursement to students.]~~

~~[(c) Funds released in this manner in the first year of the biennium become available to the institution for use in the second year of the biennium. Funds released in this manner in the second year of the biennium become available to the Coordinating Board for utilization in financial aid processing.]~~

~~[(d) Should these unspent funds result in additional funding available for the next year's program, revised allocations, calculated according to the allocation methodology outlined in this subchapter, will be issued to participating institutions during the fall semester.]~~

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

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

### 19 TAC §§22.226, 22.228, 22.238

The Texas Higher Education Coordinating Board (Coordinating Board) proposes amendments to Texas Administrative Code, Title 19, Part 1, Chapter 22, Subchapter L, §§22.226, 22.228 and 22.238, concerning the Toward EXcellence, Access, and Success (TEXAS) Grant Program. Specifically, this amendment will clarify the manner by which the Coordinating Board will disburse and re-allocate, as applicable, allocated funds for the Program. The Coordinating Board convened a negotiated rulemaking committee to consider the proposed amendments to §22.238. The committee reached a general consensus on the proposal, and the proposed rule substantively reflects the committee's determinations. The Coordinating Board will make reports of negotiated rulemaking committees available upon request.

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

Rule 22.226, Definitions, is amended by removing a reference to dual enrollment in the definition of "entering undergraduate." This is a conforming change with concurrent amendments to Coordinating Board rules and does not represent a change in the administration of the Program.

Rule 22.228, Eligible Students, is amended to clarify that a student qualifying for a grant under §22.228(6)(C) must receive an associate degree from an institution of higher education or private or independent institution of higher education, aligning more closely with the Program's statute. This does not represent a change in the administration of the Program.

The Coordinating Board convened a negotiated rulemaking committee to consider proposed amendments to §22.238. The committee reached a general consensus on the proposal, and the proposed rule substantively reflects the committee's determinations.

Rule 22.238, Disbursement of Funds, is amended by replacing existing rule text with references to §22.12 and §22.13 to describe the method by which the Coordinating Board will disburse and re-allocate funding for this program to participating institutions.

Andy MacLaurin, Assistant Commissioner for Funding and Financial Aid, has determined that for each of the first five years the sections are in effect there would be no fiscal implications for state or local governments as a result of enforcing or administering the rules. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rules. There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rules.

There is no impact on small businesses, micro businesses, and rural communities. There is no anticipated impact on local employment.

Andy MacLaurin, Assistant Commissioner for Funding and Financial Aid, has also determined that for each year of the first five years the sections are in effect, the public benefit anticipated as a result of administering the sections will be the improved transparency regarding the disbursement and re-allocation of state financial aid funding. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

Government Growth Impact Statement

(1) the rules will not create or eliminate a government program;

(2) implementation of the rules will not require the creation or elimination of employee positions;

(3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;

(4) the rules will not require an increase or decrease in fees paid to the agency;

(5) the rules will not create a new rule;

(6) the rules will not limit an existing rule;

(7) the rules will not change the number of individuals subject to the rule; and

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

Comments on the proposed rules or information related to the cost, benefit, or effect of the proposed rules, including any applicable data, research or analysis, may be submitted to Andy MacLaurin, Assistant Commissioner for Funding and Financial Aid, P.O. Box 12788, Austin, Texas 78711-2788, or via email at SFAPPolicy@highered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register.*

The amendments are proposed under Texas Education Code, Section 56.303, which provides the Coordinating Board with the authority to adopt rules relating to the Program.

The proposed amendment affects Texas Administrative Code, Title 19, Part 1, Chapter 22, Subchapter L.

*§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) 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.

(2) Initial Year Grant--The TEXAS Grant offered in the student's first year in the TEXAS Grant Program.

(3) Nontraditional Secondary Education--A course of study at the secondary school level in a nonaccredited private school setting, including a home school.

(4) Priority Student Aid Index Level--An amount calculated annually by the Coordinating Board equal to 60 percent of the average statewide amount of tuition and required fees for resident students enrolled full-time in baccalaureate degree programs at general academic teaching institutions, excluding public state colleges, for the relevant academic year.

(5) 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.

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

(7) Renewal Grant--A TEXAS Grant offered to a person who has previously received an initial year grant.

(8) 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.

(9) 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 grant and initial year grant for top 25 percent student allocations to participating institutions of higher education as described in §22.236(a)(1) and (2) of this chapter (relating to Allocation of Funds - General).

(10) Tuition--Statutory tuition, designated and/or Board-authorized tuition, as defined in §13.121 of this title (related to Definitions).

*§22.228. Eligible Students.*

(a) Initial Grants. To be eligible to receive an initial year grant, a person must:

(1) be enrolled in a baccalaureate program at a participating institution;

(2) be a resident of Texas, as defined in §22.1 of this chapter (relating to Definitions);

(3) show financial need, as defined in §22.1 of this chapter;

(4) have applied for financial aid through the completion of the Federal Application for Federal Student Aid or, if the student is not eligible for federal financial aid, the Texas Application for State Financial Aid;

(5) meet applicable standards outlined in §22.3 of this chapter (relating to Student Compliance with Selective Service Registration); and

(6) Except as provided under §22.231 of this subchapter (relating to Hardship Provisions), to receive an initial year grant, an otherwise eligible person must enroll in a baccalaureate degree program at a participating institution on at least a three-quarter time basis as:

(A) an entering undergraduate student not later than the end of the sixteenth month after the calendar month in which the person graduated from high school or successfully completed a nontraditional secondary education, as defined in §22.226 of this subchapter (relating to Definitions);

(B) an entering undergraduate student who entered military service not later than the first anniversary of the date of high school graduation and enrolled in an eligible institution no later than twelve months after being released from active duty military service with an Honorable Discharge, General Discharge under Honorable Conditions, or Honorable Separation or Release from Active Duty, as documented by the Certificate of Release or Discharge from Active Duty (DD214) issued by the Department of Defense;

(C) an undergraduate student not later than the end of the twelfth month after the calendar month in which the student received an associate degree from an institution of higher education or private or independent institution of higher education, as the terms are defined in §22.1 of this chapter; or

(D) an undergraduate student who has:

*(i)* previously attended another institution of higher education, as defined in §22.1 of this chapter;

*(ii)* received an initial Texas Educational Opportunity Grant under subchapter M of this chapter (relating to Texas Educational Opportunity Grant Program) for the 2014 fall semester or a subsequent semester;

*(iii)* completed at least twenty-four semester credit hours at any institution(s) of higher education or private or independent institution(s) of higher education, as defined in §22.1 of this chapter;

*(iv)* earned an overall grade point average of at least 2.5 on a four-point scale or the equivalent on all course work previously attempted; and

*(v)* never previously received a TEXAS Grant.

(b) Renewal Grants. To be eligible to receive a renewal grant through the TEXAS Grant Program, a student must:

(1) have previously received an initial year grant through this Program;

(2) show financial need, as defined in §22.1 of this chapter;

(3) be enrolled at least three-quarter time unless granted a hardship waiver of this requirement under §22.231 of this subchapter (relating to Hardship Provisions);

(4) be enrolled in a baccalaureate program at a participating institution;

(5) make satisfactory academic progress towards a baccalaureate degree at the participating institution, as defined in §22.229 of this subchapter (relating to Satisfactory Academic Progress); and

(6) meet applicable standards outlined in §22.3 of this chapter (relating to Student Compliance with Selective Service Registration).

(c) If a student's eligibility was based on the expectation that the student would complete a high school diploma or associate degree in time to meet the requirements for Program eligibility, and the student failed to do so, then, in order to resume eligibility, such a student must:

(1) receive an associate degree;

(2) meet all other qualifications for a TEXAS Grant;

(3) if required to do so by the institution through which the TEXAS Grant was made, repay the amount of the TEXAS Grant that was previously received; and

(4) enroll in a higher-level undergraduate degree program at a participating institution not later than the twelfth month after the month the student received an associate degree.

(d) For the purposes of this section, a student enrolled in a combined baccalaureate-master's degree program is considered to be enrolled in a baccalaureate program during the period in which the student's institution considers the student an undergraduate for federal financial aid purposes.

*§22.238. Disbursement of Funds.*

Funds allocated to an institution under this subchapter shall be disbursed and re-allocated, as applicable, in accordance with the provisions of §22.12 (relating to Disbursement of Allocated Funds) and §22.13 of this chapter (relating to Allocation Carry-Forward; Supplemental Allocations). [~~As requested by an institution throughout the academic year, the Coordinating Board shall forward to each participating institution a portion of its allocation of funds for timely disbursement to students in accordance with §22.2 of this chapter (relating to Timely Disbursement of Funds). An institution will have until the close of business on August 1, or the first working day thereafter if it falls on a weekend or holiday, to encumber program funds from their allocation. After that date, an institution shall lose claim to any funds in the current fiscal year not yet drawn down from the Coordinating Board for timely disbursement to students. Funds released in this manner in the first year of the biennium become available to the institution for use in the second year of the biennium. Funds released in this manner in the second year of the biennium become available to the Coordinating Board for utilization in grant processing. Should these unspent funds result in additional funding available for the next biennium's program, revised allocations, calculated according to the allocation methodology outlined in this rule, will be issued to participating institutions during the fall semester.~~]

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

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Douglas Brock
General Counsel
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## SUBCHAPTER M. TEXAS EDUCATIONAL OPPORTUNITY GRANT PROGRAM

### 19 TAC §§22.254, 22.261, 22.265

The Texas Higher Education Coordinating Board (Coordinating Board) proposes amendments to Texas Administrative Code, Title 19, Part 1, Chapter 22, Subchapter M, §§22.254, 22.261 and 22.265, concerning Texas Educational Opportunity Grant Program. Specifically, this amendment will clarify the manner by which the Coordinating Board will disburse and re-allocate, as applicable, allocated funds for the Program. The Coordinating Board convened a negotiated rulemaking committee to consider the proposed amendments to §22.265. The committee reached a general consensus on the proposal, and the proposed rule substantively reflects the committee's determinations. The Coordinating Board will make reports of negotiated rulemaking committees available upon request.

The Coordinating Board is authorized by Texas Education Code, §56.403, to adopt rules relating to the Program.

Rule 22.254, Definitions, is amended by removing a reference to dual enrollment in the definition of "entering undergraduate." This is a conforming change with concurrent amendments to Coordinating Board rules and does not represent a change in the administration of the Program.

Rule 22.261, Grant Amount, is amended to clarify that the Lamar Institute of Technology, which is statutorily both a public state college and a public technical institute under Texas Education Code, §61.003, is considered a public state college for program purposes. This does not represent a change in administration of the Program.

Rule 22.265, Disbursement of Funds to Institutions, is amended by replacing existing rule text with references to §22.12 and §22.13 to describe the method by which the Coordinating Board will disburse and re-allocate funding for this program to participating institutions. The rule is retitled to conform with naming conventions for similar rules elsewhere in the chapter.

Andy MacLaurin, Assistant Commissioner for Funding and Financial Aid, has determined that for each of the first five years the sections are in effect there would be no fiscal implications for state or local governments as a result of enforcing or administering the rules. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rules. There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rules.

There is no impact on small businesses, micro businesses, and rural communities. There is no anticipated impact on local employment.

Andy MacLaurin, Assistant Commissioner for Funding and Financial Aid, has also determined that for each year of the first five years the sections are in effect, the public benefit anticipated as a result of administering the sections will be the improved transparency regarding the disbursement and re-allocation of state financial aid funding. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

Government Growth Impact Statement

(1) the rules will not create or eliminate a government program;

(2) implementation of the rules will not require the creation or elimination of employee positions;

(3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;

(4) the rules will not require an increase or decrease in fees paid to the agency;

(5) the rules will not create a new rule;

(6) the rules will not limit an existing rule;

(7) the rules will not change the number of individuals subject to the rule; and

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

Comments on the proposed rules or information related to the cost, benefit, or effect of the proposed rules, including any applicable data, research or analysis, may be submitted to Andy MacLaurin, Assistant Commissioner for Funding and Financial Aid, P.O. Box 12788, Austin, Texas 78711-2788, or via email at SFAPPolicy@highered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The amendments are proposed under Texas Education Code, Section 56.403, which provides the Coordinating Board with the authority to adopt rules relating to the Program.

The proposed amendments affect Texas Administrative Code, Title 19, Part 1, Chapter 22, Subchapter M.

*§22.254. 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) Career and Technical Education Course--A workforce or continuing education college course offered by an institution of higher education for which a student may earn credit toward satisfaction of a requirement necessary to obtain an industry-recognized credential, certificate, or associate degree.

(A) A career and technical education course is listed in the Workforce Education Course Manual (WECM).

(B) For the purpose of this subchapter, this definition excludes:

*(i)* an avocational course;

*(ii)* a continuing education course that is ineligible for conversion as articulated college credit; and

*(iii)* a continuing education course that does not meet the institution's program or instructor accreditation standards.

(2) Certificate Program--For purposes of the Texas Educational Opportunity Grant Program, Level 1 and Level 2 certificates, Occupational Skills Awards, and other credentials of value as defined in §13.472 of this title (relating to Definitions). These include programs offered through academic courses or through career and technical education courses, as defined in paragraph (1) of this subsection.

(3) Continuation Grant--A grant offered to a person who has previously received an initial year grant.

(4) Entering undergraduate--A student enrolled in the first 45 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.

(5) Grant--Funds offered to a student through the Texas Educational Opportunity Grant Program.

(6) Initial Year Grant--The grant offered in the student's first year in the Program.

(7) Program--The Texas Educational Opportunity Grant Program.

*§22.261. Grant Amounts.*

(a) Grant Amounts.

(1) The Coordinating Board shall determine and announce the maximum grant amount in a given state fiscal year by January 31 of the prior fiscal year. The calculation of the maximum grant amount for a semester will be based on the average statewide amount of tuition and required fees at eligible institutions that a resident student enrolled full-time in an associate degree or certificate program measured in semester credit hours would be charged for that semester (Texas Education Code, §56.407).

(2) In the Coordinating Board's determination of the maximum grant amount, the average amount of tuition and required fees is determined by institution type (public junior colleges, public state colleges, and public technical institutes), utilizing the most recent Integrated Fiscal Reporting System reports to project the value.

(3) Institutional Classifications. For the purposes of this section:

(A) The Polytechnic College at Sam Houston State University is considered a public technical institute [~~for this purpose~~].

(B) Lamar Institute of Technology is considered a public state college.

(b) The amount of a grant offered by the institution may not be reduced by any gift aid for which the person receiving the grant is eligible, unless the total amount of a person's grant plus any gift aid received exceeds the student's cost of attendance. However, no student's grant shall be greater than the amount of the student's financial need.

(c) A participating institution may not charge a person receiving a grant through that institution an amount of tuition and required fees in excess of the grant received by the person. Nor may it deny admission to or enrollment in the institution based on a person's eligibility to receive or actual receipt of a grant. If an institution's tuition and fee charges exceed the grant, it may address the shortfall in one of two ways:

(1) use other available sources of financial aid to cover any difference in the amount of the grant and the student's actual amount

of tuition and required fees at the institution, provided that the other available sources of financial aid do not include a loan; or

(2) exempt the excess charges for the student. However, if an exemption is used, the institution may not report the recipient's tuition and fees in a way that would increase the general revenue appropriations to the institution.

(d) Grant calculations are to be completed in accordance with §22.8 of this chapter (relating to Financial Aid Adjustments).

*§22.265. Disbursement of Funds [~~to Institutions~~].*

Funds allocated to an institution under this subchapter shall be disbursed and re-allocated, as applicable, in accordance with the provisions of §22.12 (relating to Disbursement of Allocated Funds) and §22.13 of this chapter (relating to Allocation Carry-Forward; Supplemental Allocations). [~~As requested by institutions throughout the academic year, the Coordinating Board shall forward to each participating institution a portion of its allocation of funds for timely disbursement to students in accordance with §22.2 of this chapter (relating to Timely Disbursement of Funds). Institutions will have until the close of business on August 1, or the first working day thereafter if it falls on a weekend or holiday, to encumber program funds from their allocation. After that date, institutions lose claim to any funds in the current fiscal year not yet drawn down from the Coordinating Board for timely disbursement to students. Funds released in this manner in the first year of the biennium become available to the institution for use in the second year of the biennium. Funds released in this manner in the second year of the biennium become available to the Coordinating Board for utilization in grant processing. Should these unspent funds result in additional funding available for the next biennium's program, revised allocations, calculated according to the allocation methodology outlined in this rule, will be issued to participating institutions during the fall semester.~~]

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

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## SUBCHAPTER R. NURSING STUDENTS SCHOLARSHIP PROGRAM

### 19 TAC §§22.367 - 22.369

The Texas Higher Education Coordinating Board (Coordinating Board) proposes amendments to Texas Administrative Code, Title 19, Part 1, Chapter 22, Subchapter R, §§22.367 - 22.369, concerning Nursing Students Scholarship Program. Specifically, this amendment will clarify the manner by which the Coordinating Board will disburse and re-allocate, as applicable, allocated funds for the program. The Coordinating Board convened a negotiated rulemaking committee to consider the proposed amendments to §22.368 and §22.369. The committee reached a general consensus on the proposal, and the proposed rule substantively reflects the committee's determinations. The Coordinating Board will make reports of negotiated rulemaking committees available upon request.

The Coordinating Board is authorized by Texas Education Code, §61.656, to adopt rules relating to the Program.

Rule 22.367, Scholarship Amount, is amended to correct an erroneous citation in subsection (a)(1). This does not represent a change in the administration of the Program.

Rule 22.368, Allocation of Funds, is amended by adding subsection (c), so the structure of the program rules conforms to other subchapters in the chapter. The added subsection is identical to current §22.369(b).

Rule 22.369, Disbursement of Funds, is amended by replacing existing rule text with references to §22.12 and §22.13 to describe the method by which the Coordinating Board will disburse and re-allocate funding for this program to participating institutions. As noted previously, subsection (b) is relocated to §22.368(c).

Andy MacLaurin, Assistant Commissioner for Funding and Financial Aid, has determined that for each of the first five years the sections are in effect there would be no fiscal implications for state or local governments as a result of enforcing or administering the rules. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rules. There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rules.

There is no impact on small businesses, micro businesses, and rural communities. There is no anticipated impact on local employment.

Andy MacLaurin, Assistant Commissioner for Funding and Financial Aid, has also determined that for each year of the first five years the sections are in effect, the public benefit anticipated as a result of administering the sections will be the improved transparency regarding the disbursement and re-allocation of state financial aid funding. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

Government Growth Impact Statement

(1) the rules will notcreate or eliminate a government program;

(2) implementation of the rules will not require the creation or elimination of employee positions;

(3) implementation of the rules will notrequire an increase or decrease in future legislative appropriations to the agency;

(4) the rules will not require an increase or decrease in fees paid to the agency;

(5) the rules will not create a new rule;

(6) the rules will not limit an existing rule;

(7) the rules will not change the number of individuals subject to the rule; and

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

Comments on the proposed rules or information related to the cost, benefit, or effect of the proposed rules, including any applicable data, research or analysis, may be submitted to Andy MacLaurin, Assistant Commissioner for Funding and Financial Aid, P.O. Box 12788, Austin, Texas 78711-2788, or via email at SFAPPolicy@highered.texas.gov. Comments will be accepted

for 30 days following publication of the proposal in the *Texas Register*.

The amendments are proposed under Texas Education Code, Section 61.656, which provides the Coordinating Board with the authority to adopt rules relating to the Program.

The proposed amendments affects Texas Administrative Code, Title 19, Part 1, Chapter 22, Subchapter R.

*§22.367. Scholarship Amount.*

(a) Scholarship Amount. Each state fiscal year, the maximum scholarship amount per semester shall be:

(1) for institutions eligible to offer grants through the Texas Educational Opportunity Grant Program, the maximum grant amount established in §22.261(a) [~~§22.261(b)~~] of this chapter (relating to Grant Amounts);

(2) for institutions eligible to offer grants through the Toward EXcellence, Access, and Success (TEXAS) Grant Program, the maximum grant amount established in §22.234(b) of this chapter (relating to Grant Amounts); or

(3) for institutions eligible to offer grants through the Tuition Equalization Grant Program or an institution described by Texas Education Code, §61.651(1)(C), one half of the maximum grant amount established in §22.28(a)(3)(A) of this chapter (relating to Award Amounts and Adjustments).

(b) The amount of a scholarship plus any other gift aid may not exceed the student's financial need.

(c) For an eligible student who also is a Texas Educational Opportunity Grant or Toward EXcellence, Access, and Success (TEXAS) Grant recipient, a scholarship offered under this subchapter may not be used as financial aid to meet the requirements of §22.261(c) (for TEOG recipients) or §22.234(c) (for TEXAS Grant recipients) of this chapter (relating to Grant Amounts respectively).

*§22.368. Allocation of Funds.*

(a) Allocations. Allocations are to be determined as follows:

(1) Each institution's percent of the available funds will equal the ratio of its institutional need to the state-wide need.

(2) An institution's institutional need is calculated by multiplying:

(A) the number of students it reported in the most recent certified Financial Aid Database submission who met the following criteria:

*(i)* were classified as Texas residents;

*(ii)* were enrolled in a vocational or professional nursing program on at least a half-time basis; and

*(iii)* have a 9-month Expected Family Contribution, calculated using federal methodology, less than or equal to the Federal Pell Grant eligibility cap for the year reported in the Financial Aid Database submission; and

(B) the institution's maximum scholarship amount, as determined by the Coordinating Board under §22.367(a) of this subchapter (relating to Scholarship Amount).

(3) The state-wide need is calculated as the sum of all eligible institutions' institutional need.

(4) Allocations for both years of the state appropriations' biennium will be completed at the same time. The three most recent certified Financial Aid Database submissions will be used to forecast the data utilized in the calculation of the allocation for the second year of the biennium. Institutions will receive notification of their allocations for both years of the biennium at the same time.

(5) Notwithstanding subsection (a)(4) of this section, allocations for Fiscal Year 2025 will be based on the most recent certified Financial Aid Database submission.

(6) Allocation calculations will be shared with all participating institutions for comment and verification prior to final posting and the institutions will be given ten (10) working days, beginning the day of the notice's distribution and excluding State holidays, to confirm that the allocation report accurately reflects the data they submitted or to notify the Coordinating Board in writing of any inaccuracies.

(b) Limited Allocation for Certain Institutions. Notwithstanding the allocation methodology established in subsection (a) of this section, an institution described by Texas Education Code, §61.651(1)(C), may not receive more than ten (10) percent of the total amount of scholarship funds allocated in a fiscal year. Excess funds that would otherwise be allocated to such an institution will instead be allocated to the remaining eligible institutions according to the allocation methodology established in subsection (a) of this section.

(c) Reductions in Funding.

(1) If annual funding for the program is reduced after the start of a fiscal year, the Coordinating Board may take steps to help distribute the impact of reduced funding across all participating institutions by an across-the-board percentage decrease in all institutions' allocations.

(2) If annual funding is reduced prior to the start of a fiscal year, the Coordinating Board may recalculate the allocations according to the allocation methodology outlined in this rule for the affected fiscal year based on available dollars.

*§22.369. Disbursement of Funds.*

Funds allocated to an institution under this subchapter shall be disbursed and re-allocated, as applicable, in accordance with the provisions of §22.12 (relating to Disbursement of Allocated Funds) and §22.13 of this chapter (relating to Allocation Carry-Forward; Supplemental Allocations).

~~[(a) Disbursement of Funds to Institutions. As requested by institutions throughout the academic year, the Coordinating Board shall forward to each participating institution a portion of its allocation of funds for timely disbursement to students. Institutions will have until the close of business on August 1, or the first working day thereafter if it falls on a weekend or holiday, to encumber program funds from their allocation. After that date, institutions lose claim to any funds in the current fiscal year not yet drawn down from the Coordinating Board for timely disbursement to students. Funds released in this manner in the first year of the biennium become available to the institution for use in the second year of the biennium. Funds released in this manner in the second year of the biennium become available to the Coordinating Board for utilization in scholarship processing. Should these unspent funds result in additional funding available for the next biennium's program, revised allocations, calculated according to the allocation methodology outlined in this rule, will be issued to participating institutions during the fall semester.]~~

~~[(b) Reductions in Funding.]~~

~~[(1) If annual funding for the program is reduced after the start of a fiscal year, the Coordinating Board may take steps to help distribute the impact of reduced funding across all participating institutions by an across-the-board percentage decrease in all institutions' allocations.]~~

[(2) If annual funding is reduced prior to the start of a fiscal year, the Coordinating Board may recalculate the allocations according to the allocation methodology outlined in this rule for the affected fiscal year based on available dollars.]

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

Filed with the Office of the Secretary of State on July 23, 2026.

TRD-202603087
Douglas Brock
General Counsel
Texas Higher Education Coordinating Board
Earliest possible date of adoption: September 6, 2026
For further information, please call: (512) 427-6495

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# CHAPTER 24. STUDENT LOAN PROGRAMS SUBCHAPTER D. COLLEGE ACCESS LOAN PROGRAM

## 19 TAC §24.46

The Texas Higher Education Coordinating Board (Coordinating Board) proposes amendments to Texas Administrative Code, Title 19, Part 1, Chapter 24, Subchapter D, §24.46, concerning Repayment of Loans. Specifically, this amendment will specify the manner in which College Access Loans are assigned a repayment period.

The Coordinating Board is authorized by Texas Education Code, Chapter 52, Subchapter C, and §52.31, et. seq., to adopt rules relating to state loan programs.

Rule 24.46, Repayment of Loans, is amended by revising subsection (a), which prescribes how repayment periods are assigned to College Access Loans upon entering repayment. The amendment maintains the existing maximum repayment period (20 years) for such loans, while specifying that the standard repayment period and conditions for requesting an extended repayment period shall be specified in the loan promissory note. The revised methodology simplifies implementation, ensures clear continuity between agency policy and loan documentation, and allows the Coordinating Board to respond efficiently to ensure general alignment between its practices and those of the federal student loan program, in keeping with its statutory mandate.

Anthony Infantini, Chief Financial Officer, has determined that for each of the first five years the section is in effect there would be no fiscal implications for state or local governments as a result of enforcing or administering the rule. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rule. There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rule.

There is no impact on small businesses, micro businesses, and rural communities. There is no anticipated impact on local employment.

Anthony Infantini, Chief Financial Officer, has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be the greater clarity regarding loan repayment options.

There are no anticipated economic costs to persons who are required to comply with the section as proposed.

Government Growth Impact Statement

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

(2) implementation of the rule will not require the creation or elimination of employee positions;

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

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

(5) the rule will not create a new rule;

(6) the rule will not limit an existing rule;

(7) the rule will not change the number of individuals subject to the rule; and

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

Comments on the proposed rule or information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research or analysis, may be submitted to Anthony Infantini, Chief Financial Officer, P.O. Box 12788, Austin, Texas 78711-2788, or via email at SFAPPolicy@highered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The amendment is proposed under Texas Education Code, Chapter 52, Subchapter C, and Section 52.31, et. seq., which provide the Coordinating Board with the authority to adopt rules relating to state loan programs.

The proposed amendment affects Texas Administrative Code, Title 19, Part 1, Chapter 24, Subchapter D.

*§24.46. Repayment of Loans.*

(a) Repayment Period. The promissory note shall specify a standard repayment period for a loan under this subchapter, as well as the conditions under which a borrower may request an extended repayment period, not to exceed twenty (20) years. [The repayment period for a College Access Loan shall be:]

[(1) Ten (10) years, if the amount of principal owed by the borrower on loans authorized under this chapter is less than $30,000; or]

[(2) Twenty (20) years, if the amount of principal owed by the borrower on loans authorized under this chapter exceeds $30,000.]

(b) Minimum Monthly Payment. Unless a lower monthly payment is authorized under §24.14 of this chapter (relating to Forbearance), a borrower's minimum monthly payment for a College Access Loan shall be the greater of:

(1) the amount required to amortize the loan over the course of the repayment period; or

(2) fifty dollars ($50.00).

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

Filed with the Office of the Secretary of State on July 23, 2026.

TRD-202603088

Douglas Brock
General Counsel
Texas Higher Education Coordinating Board
Earliest possible date of adoption: September 6, 2026
For further information, please call: (512) 427-6495

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# PART 2. TEXAS EDUCATION AGENCY

## CHAPTER 89. ADAPTATIONS FOR SPECIAL POPULATIONS

## SUBCHAPTER BB. COMMISSIONER'S RULES CONCERNING STATE PLAN FOR EDUCATING EMERGENT BILINGUAL STUDENTS

### 19 TAC §§89.1201, 89.1203, 89.1210, 89.1215, 89.1220, 89.1226 - 89.1228, 89.1230, 89.1235

The Texas Education Agency (TEA) proposes amendments to §§89.1201, 89.1203, 89.1210, 89.1215, 89.1220, 89.1226, 89.1227, 89.1228, 89.1230, and 89.1235, concerning the state plan for educating emergent bilingual students. The proposed amendments would align with state and federal regulations by updating existing definitions and requirements to reflect current statutory terminology; clarify procedures related to the identification, placement, instruction, reclassification, monitoring, and reporting of emergent bilingual students; make technical and clarifying updates to improve the consistency, structure, and application of the rules; and comply with all applicable federal and state executive orders.

BACKGROUND INFORMATION AND JUSTIFICATION: The proposed amendments to 19 TAC §§89.1201, 89.1210, 89.1227, 89.1228, and 89.1235 would update terminology to comply with federal and state executive orders.

The proposed amendment to §89.1203 would add a definition for dually identified emergent bilingual students who are eligible for and receiving special education and related services to align with state guidance.

The proposed amendment to §89.1215 would align with state and federal regulations to clarify that American Sign Language, when identified on the home language survey, will no longer, by itself, initiate the identification process for potential emergent bilingual students.

The proposed amendment to §89.1220 would clarify procedures for out-of-state transfer students previously identified as emergent bilingual in Texas to align with state and federal regulations.

The proposed amendment to §89.1226 would update state policy language to align with state and federal regulations. Language would be stricken to remove the exclusion of prekindergarten and kindergarten students from eligibility for reclassification at the end of the academic year, consistent with federal requirements that all identified emergent bilingual students have the opportunity to demonstrate English language proficiency annually.

The proposed amendment to §89.1230 would update terminology related to dually identified emergent bilingual students who receive special education services.

FISCAL IMPACT: Jennifer Alexander, associate commissioner for special populations and student supports, has determined that for the first five-year period the proposal is in effect, there would be no direct fiscal impact to state government. The amendments may result in variable and indirect costs for school districts and open-enrollment charter schools due to reclassification of some prekindergarten and kindergarten students up to two years earlier than previously projected, which could affect bilingual education allotment funding. However, any impact would vary by district based on student demographics, enrollment patterns, and reclassification outcomes and cannot be reliably estimated.

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

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

COST INCREASE TO REGULATED PERSONS: The proposal may impose a cost on local government due to changes in projected bilingual education allotment funding. However, the proposal is exempt from the requirements of Texas Government Code, §2001.0045, because the rules are necessary to receive a source of federal funds or to comply with federal law.

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

GOVERNMENT GROWTH IMPACT: TEA staff conducted a Government Growth Impact assessment for this proposed rulemaking. During the first five years the rules are in effect, the amendments would expand and limit existing regulations by reorganizing and updating the commissioner's rules governing bilingual education and special language programs, refining alignment with statute and applicable federal and state executive orders, providing greater specificity regarding program implementation for emergent bilingual students, and making non-substantive revisions to improve clarity and usability.

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

PUBLIC BENEFIT AND COST TO PERSONS: Ms. Alexander has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposal would be to improve clarity, consistency, and transparency in the statewide administration of bilingual education and special language programs by supporting uniform identification, placement, and monitoring of emergent bilingual students; aligning commissioner's rules with current statutory terminology and federal requirements; and enhancing the clarity and usability of the rules for districts and stakeholders. There is no anticipated economic cost to persons who are required to comply with the proposal.

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

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

PUBLIC COMMENTS: TEA requests public comments on the proposal, including, per Texas Government Code, §2001.024(a)(8), information related to the cost, benefit, or effect of the proposed rule and any applicable data, research, or analysis, from any person required to comply with the proposed rule or any other interested person. The public comment period on the proposal begins August 7, 2026, and ends September 7, 2026. A request for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 14 calendar days after notice of the proposal has been published in the *Texas Register* on August 7, 2026. A form for submitting public comments is available on the TEA website at https://tea.texas.gov/laws-and-rules/commissioner-rules-tac/proposed-commissioner-education-rules.

STATUTORY AUTHORITY. The amendments are proposed under Texas Education Code (TEC), §29.051, which establishes the state policy regarding bilingual and special language programs; TEC, §29.052, which establishes the definitions of an emergent bilingual student and parent; TEC, §29.053, which establishes the criteria for the establishment of bilingual education and special language programs; TEC, §29.054, as amended by House Bill (HB) 2 and Senate Bill 2185, 89th Texas Legislature, Regular Session, 2025, which establishes the criteria for exceptions; TEC, §29.055, which establishes the criteria for program content and the method of instruction; TEC, §29.056, as amended by HB 8, 89th Texas Legislature, Second Called Session, 2025, which establishes the criteria for enrollment of students in the program; TEC, §29.0561, which establishes the criteria for the evaluation of transferred students and reenrollment procedures; TEC, §29.057, which establishes the criteria for facilities and classes of bilingual education and special language programs; TEC, §29.058, which establishes the criteria for enrollment of students who do not have limited English proficiency; TEC, §29.059, which establishes the criteria for cooperation among districts to provide bilingual education and special language programs; TEC, §29.060, which establishes the criteria for preschool, summer school, and extended time programs; TEC, §29.061, which establishes the criteria for bilingual education and special language program teachers; TEC, §29.062, which establishes the criteria for monitoring compliance to evaluate the effectiveness of programs related to bilingual education and special language programs; TEC, §29.063, which establishes the criteria for language proficiency assessment committees; TEC, §29.064, which establishes the criteria for appeals; and TEC, §29.066, which establishes the criteria for a district's Public Education Information Management System reporting requirements.

CROSS REFERENCE TO STATUTE. The amendments implement Texas Education Code, §§29.051; 29.052; 29.053; 29.054, as amended by House Bill (HB) 2 and Senate Bill 2185, 89th Texas Legislature, Regular Session, 2025; 29.055; 29.056, as amended by HB 8, 89th Texas Legislature, Second Called Session, 2025; 29.0561; 29.057; 29.058; 29.059; 29.060; 29.061; 29.062; 29.063; 29.064; and 29.066.

*§89.1201. Policy.*

(a) It is the policy of the state that every student in the state who has a home language other than English and who is identified as an emergent bilingual (EB) student shall be provided a full opportunity to participate in bilingual education, to include bilingual and English as a second language (ESL) programs, as required in Texas Education Code (TEC), Chapter 29, Subchapter B. To ensure equal educational opportunity, as required in TEC, §1.002(a), each school district shall:

(1) identify EB students based on criteria established by the state;

(2) provide bilingual education, including bilingual and ESL programs, as integral parts of the general program as described in TEC, §4.002;

(3) seek appropriately certified teaching personnel to ensure that EB students are afforded full opportunity to master the essential knowledge and skills required by the state; and

(4) assess for academic achievement and linguistic progress in accordance with TEC, Chapter 29, Subchapter B, to ensure accountability for EB students and the schools that serve them.

(b) The goal of bilingual program models, including dual-language immersion and transitional bilingual education, shall be to enable EB students to develop home or partner language literacy and academic skills through the integrated use of content-based language instructional methods to become proficient in listening, speaking, reading, and writing in the English language. Such programs shall include the mastery of grade level reading and language arts knowledge and skills in the home or partner language and in English, along with mathematics, science, and social studies knowledge and skills as integral parts of the academic goals for all students to enable EB students to participate fully [~~equitably~~] in school.

(c) The goal of ESL program models, including content-based and pull-out, shall be to enable EB students to become proficient in listening, speaking, reading, and writing in the English language through the integrated use of content-based language instructional methods. The ESL program shall include the mastery of grade level English reading and language arts, mathematics, science, and social studies knowledge and skills in English as integral parts of the academic goals for all students to enable EB students to participate fully [~~equitably~~] in school.

(d) Bilingual and ESL programs shall be integral parts of the total school program. Such programs shall use instructional approaches designed to meet the specific language needs of EB students. The curriculum content of the programs shall be based on the Texas Essential Knowledge and Skills and the English Language Proficiency Standards required by the state.

*§89.1203. Definitions.*

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

(1) Alternative methods--A temporary instructional plan that meets the affective, linguistic, and cognitive needs of emergent bilingual (EB) students and equips the teacher under a bilingual exception or an English as a second language (ESL) waiver described in §89.1207 of this title (relating to Bilingual Program Exceptions and English as a Second Language Program Waivers) to align closely to the required bilingual or ESL program through the comprehensive professional development plan.

(2) Bilingual education allotment (BEA)--An adjusted basic funding allotment provided for each school district based on student average daily attendance in a bilingual or an ESL program in accordance with Texas Education Code (TEC), §48.105.

(3) Certified bilingual program teacher--A teacher holding bilingual certification and appropriately certified for the grade level and content area. The term "certified bilingual program teacher" is synonymous with the term "professional bilingual educator" used in TEC, §29.063.

(4) Certified English as a second language teacher--A teacher appropriately certified in ESL as well as for the grade level and content area. The term "certified English as a second language teacher" as used in this subchapter is synonymous with the term "professional transitional language educator" used in TEC, §29.063.

(5) Content-based language instruction (CBLI)--An integrated approach to language instruction in which language is developed within the context of content delivery that is linguistically sustaining and is used across all programs for EB students to develop the home or partner language and English.

(6) Dual language immersion (DLI) program--A state-approved bilingual program in accordance with TEC, §29.066, that uses English and a partner language. The two state-approved DLI program models are one-way DLI and two-way DLI.

(7) Dual-language instruction--An educational approach that focuses on the use of English and the student's home or partner language for instructional purposes as described in TEC, §29.055, to include both DLI and transitional bilingual education (TBE) programs.

(8) Dually identified--A student who is identified as an emergent bilingual and is eligible for and receiving special education and related services.

(9) [~~(8)~~] Emergent bilingual (EB)--A student identified by the Language Proficiency Assessment Committee (LPAC) who is in the process of acquiring English and has another language as the student's home language. This term is interchangeable with English learner as used in federal regulations and replaces the term "limited English proficient student" formerly used in TEC, Chapter 29, Subchapter B.

(10) [~~(9)~~] English as a second language (ESL) program--A special language program in accordance with TEC, Chapter 29, Subchapter B, to include both content-based and pull-out program models. Another related term for an ESL program is "English as an additional language program."

(11) [~~(10)~~] English language proficiency standards (ELPS)--The ELPS outline English language proficiency level descriptors and student expectations for EB students. School districts shall implement these standards as an integral part of each subject in the required curriculum. The ELPS are to be published along with the Texas Essential Knowledge and Skills for each subject in the required curriculum, as described in Chapter 120, Subchapter B, [~~§74.4(a)(1)~~] of this title (relating to English Language Proficiency Standards).

(12) [~~(11)~~] English proficient student--A former EB student who has met reclassification as English proficient by the LPAC.

(13) [~~(12)~~] Enrollment--Receiving instruction by attendance in a public school. This term does not apply to students who are registered but not yet receiving instruction.

(14) [~~(13)~~] Exit--The point at which an EB student is reclassified as English proficient and ends bilingual or ESL program participation with LPAC recommendation and parental approval. The term "exit" as used in this subchapter is synonymous with the description in TEC, Chapter 29, Subchapter B, of a student having been "transferred out" of bilingual or special language programming. For the purpose of meeting the goals of a DLI program, the LPAC recommends that the EB student is reclassified as English proficient but continues participation in the program to further develop biliteracy for the duration of the program for prekindergarten through Grade 12.

(15) [~~(14)~~] Home language--A language other than English that is indicated on the home language survey under §89.1215 of this title (relating to Home Language Survey) as being used at home, used by the child at home, or used by the child in a previous home setting.

(16) [~~(15)~~] Language allocation plan--A strategically developed and clearly communicated plan for a DLI program that defines the percentage of language of instruction for each content area and grade level.

(17) [~~(16)~~] Language Proficiency Assessment Committee (LPAC) --A designated group of committee members as described in §89.1220 of this title (relating to Language Proficiency Assessment Committee (LPAC)) and TEC, §29.063 [~~§26.063~~] , that ensures the appropriate identification, placement, assessment, services, reclassification, and monitoring of EB students. The LPAC also meets in conjunction with all other committees related to programs and services for which an EB student qualifies.

(18) [~~(17)~~] Non-emergent bilingual student--A student who has never been classified as an EB student by an LPAC.

(19) [~~(18)~~] Paired teaching--A teaching partnership permissible in a DLI program model when half the content area instruction is in the partner language and half is in English (50/50 language allocation). One teacher provides content area instruction in the partner language while the second teacher provides content area instruction delivered in English. The teacher instructing in the partner language shall hold bilingual certification while the teacher instructing in English may hold either bilingual or ESL certification.

(20) [~~(19)~~] Parent--The parent or legal guardian of the student in accordance with TEC, §29.052(2).

(21) [~~(20)~~] Partner language--The designated language of instruction other than English within a DLI program. The partner language within a DLI program may or may not be the home language of a DLI program student.

(22) [~~(21)~~] Prekindergarten--Students enrolled in a 3- or 4-year-old prekindergarten program as well as 3- or 4-year-old students enrolled in an early education setting.

(23) [~~(22)~~] Reclassification--The process by which the LPAC determines that an EB student has met the appropriate criteria to be classified as English proficient, and the student enters year 1 of monitoring as indicated in the Texas Student Data System Public Education Information Management System.

(24) [~~(23)~~] School district-- The term school district includes an open-enrollment charter school or a district of innovation.

*§89.1210. Program Content and Design.*

(a) Each school district required to offer bilingual education through bilingual or English as a second language (ESL) program models shall provide each emergent bilingual (EB) student the opportunity to be enrolled in the required program at their grade level. Each student's level of proficiency shall be designated by the Language Proficiency Assessment Committee (LPAC) in accordance with §89.1220(g) of this title (relating to Language Proficiency Assessment Committee (LPAC)). The school district shall accommodate the instruction, pacing, and materials to ensure that EB students have a full opportunity to master the essential knowledge and skills of the required curriculum, which includes the Texas Essential Knowledge and Skills (TEKS) and English language proficiency standards (ELPS). Students participating in bilingual program models may demonstrate

their mastery of the essential knowledge and skills in either the home or partner language or in English for each content area.

(1) Bilingual program models established by a school district shall be full-time programs of dual-language instruction (English and home or partner language) that provides for learning academic and literacy skills in the student's home or program partner language and for carefully structured and sequenced mastery of English language skills under Texas Education Code (TEC), §29.055(a), throughout the elementary grades and beyond if the district so chooses as defined in §89.1205(a) of this title (relating to Required Bilingual and English as a Second Language (ESL) Programs).

(2) ESL program models established by a school district shall be programs of intensive instruction in English in which ESL teachers recognize and address language differences in accordance with TEC, §29.055(a), in prekindergarten through Grade 12.

(b) Bilingual and ESL program models shall be integral parts of the general educational program required under Chapter 74 of this title (relating to Curriculum Requirements) to include foundation and enrichment areas, ELPS, and college and career readiness standards. In bilingual program models, school districts shall purchase instructional materials in all program languages with the district's instructional materials allotment or otherwise acquire instructional materials for use in bilingual program classes in accordance with TEC, §31.029(a). Instructional materials for bilingual programs on the list adopted by the commissioner of education, as provided by TEC, §31.0231, may be used as curriculum tools to enhance the learning process. The school district shall ensure ongoing collaboration between bilingual and ESL programs and the general education programs to provide [~~equitable~~] educational access for all learners. Bilingual and ESL programs shall address the affective, linguistic, and cognitive needs of EB students as follows.

(1) Affective.

(A) EB students in a bilingual program shall be provided instruction using content-based language instructional methods in English and/or their home or partner language to acclimate students to the school environment and to develop academic language skills, which instills confidence, self-assurance, and a positive identity with their family [~~cultural~~] heritages. The program shall be designed to consider the students' learning experiences and shall incorporate various [~~the cultural~~] aspects of the students' backgrounds in accordance with TEC, §29.055(b).

(B) EB students in an ESL program shall be provided instruction using content-based language instructional methods in English to acclimate students to the school environment and to develop academic language skills, which instills confidence, self-assurance, and a positive identity with their family [~~cultural~~] heritages. The program shall be designed to incorporate the students' home languages and learning experiences and shall incorporate various [~~the cultural~~] aspects of the students' backgrounds in accordance with TEC, §29.055(b).

(2) Linguistic.

(A) EB students in a bilingual program shall be provided targeted and intentional academic language instruction to develop proficiency in listening, speaking, reading, and writing in both English and the home or partner language. The instruction in both languages shall be structured to ensure that the students develop a strong literacy foundation and master the required essential knowledge and skills and higher-order thinking skills in all subjects, providing individualized linguistically accommodated content instruction commensurate with the students' language proficiency levels. The ELPS student expectations are provided for English development in conjunction with the TEKS.

(B) EB students in an ESL program shall be provided targeted and intentional academic language instruction to develop proficiency in listening, speaking, reading, and writing in the English language. The instruction in academic content areas shall be structured to ensure that the students master the required essential knowledge and skills and higher-order thinking skills in all subjects, providing individualized linguistically accommodated content instruction commensurate with the students' language proficiency levels. The ELPS student expectations are provided for English development in conjunction with the TEKS.

(3) Cognitive.

(A) EB students in a bilingual program shall be provided instruction in reading and language arts, mathematics, science, and social studies in both the home or partner language and English, using content-based language instructional methods in either the home or partner language, English, or both, depending on the program model(s) implemented by the district. The content area instruction in both languages shall be structured to ensure that the students master the required essential knowledge and skills and higher-order thinking skills in all subjects.

(B) EB students in an ESL program shall be provided instruction in English in reading and language arts, mathematics, science, and social studies using content-based language instructional methods. The instruction in all academic content areas shall be structured to ensure that the students master the required essential knowledge and skills and higher-order thinking skills.

(c) The bilingual program [~~Bilingual programs~~] shall be implemented through at least one of the following program models.

(1) Transitional bilingual/early exit is a bilingual program model in which identified EB students are served in both English and the students' home language and are prepared to meet reclassification criteria to be successful in English instruction with no second language acquisition supports not earlier than two or later than five years after the student enrolls in school. Instruction in this program is delivered by a teacher appropriately certified in bilingual education under TEC, §29.061(b)(1), for the assigned grade level and content area. The goal of early-exit transitional bilingual education is for program participants to use their home language as a resource while acquiring full proficiency in English. This model provides instruction in literacy and academic content through the medium of the students' home language and English using content-based language instruction methods.

(2) Transitional bilingual/late exit is a bilingual program model in which identified EB students are served in both English and the students' home language and are prepared to meet reclassification criteria to be successful in English instruction with no second language acquisition supports not earlier than six or later than seven years after the student enrolls in school. Instruction in this program is delivered by a teacher appropriately certified in bilingual education under TEC, §29.061(b)(2), for the assigned grade level and content area. The goal of late-exit transitional bilingual education is for program participants to use their home language as a resource while acquiring full proficiency in English. This model provides instruction in literacy and academic content through the medium of the students' home language and English through content-based language instruction.

(3) Dual language immersion/one-way is a bilingual/biliteracy program model in which identified EB students are served in both English and the program's partner language and are prepared to meet reclassification criteria in order to be successful in English in-

struction with no second language acquisition supports not earlier than six or later than seven years after the student enrolls in school. Instruction provided in the partner language and English is delivered by a teacher appropriately certified in bilingual education under TEC, §29.061. When the instructional time for both the partner language and English is 50%, a paired-teaching arrangement may be utilized in which instruction provided in English may be delivered either by a teacher appropriately certified in bilingual education or by a different teacher certified in ESL in accordance with TEC, §29.061. The goal of one-way dual language immersion is for program participants to attain bilingualism and biliteracy in English and the partner language. This model provides ongoing instruction in literacy and academic content through content-based language instruction in English as well as the program's partner language, with at least half of the instruction delivered in the program's partner language for the duration of the program.

(4) Dual language immersion/two-way is a bilingual/biliteracy program model in which identified EB students are integrated with non-EB students and are served in both English and the program's partner language and are prepared to meet reclassification criteria in order to be successful in English instruction with no second language acquisition supports not earlier than six or later than seven years after the student enrolls in school. Instruction provided in English and the partner language is delivered by a teacher appropriately certified in bilingual education under TEC, §29.061. When the instructional time for both the partner language and English is 50%, a paired-teaching arrangement may be utilized in which instruction provided in English may be delivered either by a teacher appropriately certified in bilingual education or by a different teacher certified in ESL in accordance with TEC, §29.061. The goal of two-way dual language immersion is for program participants to attain bilingualism and biliteracy in English as well as the partner language. This model provides ongoing instruction in literacy and academic content through content-based language instruction in English and the partner language with at least half of the instruction delivered in the program's partner language for the duration of the program.

(d) The ESL program shall be implemented through one of the following program models.

(1) An ESL/content-based program model is an English acquisition program that serves identified EB students through English instruction provided by a teacher appropriately certified in ESL under TEC, §29.061(c), using content-based language instruction methods in reading and language arts, mathematics, science, and social studies. The goal of content-based ESL is for program participants to attain full proficiency in English in order to participate fully [~~equitably~~] in school.

(2) An ESL/pull-out program model is an English acquisition program that serves identified EB students through English instruction using content-based language instruction methods provided by an appropriately certified ESL teacher under TEC, §29.061(c), in reading and language arts in a pull-out or inclusionary delivery setting. The goal of ESL pull-out is for program participants to attain full proficiency in English in order to participate fully [~~equitably~~] in school.

(e) Except in the courses specified in subsection (f) of this section, content-based language instructional methods, which may involve the use of the students' home or the program's partner language, may be provided in any of the courses or electives required for promotion or graduation to assist program participants in mastering the essential knowledge and skills for the required subject(s). The use of content-based language instruction shall not impede the awarding of credit toward meeting promotion or graduation requirements.

(f) In subjects such as art, music, and physical education, EB students shall participate with their non-EB peers in general education classes provided in the subjects. As noted in TEC, §29.055(d), elective courses included in the curriculum may be taught in a language other than English. The school district shall ensure that EB students enrolled in bilingual and ESL programs have a meaningful opportunity to participate with non-EB peers in all extracurricular activities.

(g) The required bilingual or ESL program shall be provided to every EB student with parental approval until such time that the student meets reclassification criteria as described in §89.1226(i) of this title (relating to Testing and Classification of Students) or graduates from high school. Parental approval is required when the LPAC recommends continuing dual language immersion program participation beyond reclassification.

*§89.1215. Home Language Survey.*

(a) For each new student enrolling for the first time in a Texas public school in any grade from prekindergarten through Grade 12, the Texas Education Agency (TEA)-developed home language survey shall be administered. The [~~This~~] home language survey completed at initial enrollment shall [~~will~~] serve as the student's [~~original and only~~] home language survey of record throughout the student's enrollment [~~educational experience~~] in Texas public schools. School districts shall:

(1) ensure that the student's parent understands the language used in the survey and its implications;

(2) require that the survey be signed by the student's parent for each student in prekindergarten through Grade 8 or by the student in Grades 9-12 as permitted under Texas Education Code, §29.056(a)(1);

(3) ensure the student's parent is aware of the benefits of bilingual and ESL programs; and

(4) maintain the original copy of the survey in the student's permanent record and transfer it to any subsequent Texas public school districts in which the student enrolls.

(b) The TEA-developed home language survey shall be administered in English and a language that the parents can understand. The home language survey shall include the following questions.

(1) "Which languages are used at home?"

(2) "Which languages are used by the child at home?"

(3) "If the child had a previous home setting, which languages were used? If there was no previous home setting, answer Not Applicable (N/A)."

(c) Except as provided in subsection (d) of this section, if [~~If~~] any response on the home language survey indicates that a language other than English is or was used for communication, the student shall be tested in accordance with §89.1226 of this title (relating to Testing and Classification of Students).

(d) If American Sign Language (ASL) is a response indicated on the home language survey, it alone does not trigger the identification process in accordance with §89.1226 of this title. Responses to the home language survey questions described in subsection (b) of this section must also indicate a language other than English in addition to ASL.

(e) [~~(d)~~] For students previously enrolled in a Texas public school, the receiving district shall secure the student records, including the original home language survey and language proficiency assessment committee documentation as described in §89.1220(l) of this title (relating to Language Proficiency Assessment Committee (LPAC)), as applicable. All attempts to contact the sending district to request records shall be documented. Multiple attempts to obtain the student's original home language survey shall be made.

(f) [~~(e)~~] If a parent determines an error was made when completing the original home language survey, the parent may request a correction only if:

(1) the student has not yet been assessed for English proficiency; and

(2) corrections are made within two calendar weeks of the student's initial enrollment date in Texas public schools.

*§89.1220. Language Proficiency Assessment Committee (LPAC).*

(a) School districts shall by local board policy establish and operate one or more Language Proficiency Assessment Committees (LPACs). The school district shall have on file a policy and procedures for the selection, appointment, and orientation of members of the LPAC(s).

(b) The LPAC shall include an appropriately certified bilingual educator (for students served through a bilingual program), an appropriately certified English as a second language (ESL) educator (for students served through an ESL program), a parent of an emergent bilingual (EB) student participating in a bilingual or ESL program, and a campus administrator in accordance with Texas Education Code (TEC), §29.063.

(c) In addition to the three required members of the LPAC, the school district may add other members to the committee. All required members of an LPAC must be present either in person or virtually to make individualized student decisions.

(d) No parent serving on the LPAC shall be an employee of the school district.

(e) A school district shall establish and operate a sufficient number of LPACs to enable them to discharge their duties within four calendar weeks of the enrollment of an EB student.

(f) All members of the LPAC, including parents, shall be acting for the school district and shall observe all laws and rules governing confidentiality of information concerning individual students. The school district shall be responsible for the orientation of all members of the LPAC, including the parents. The LPAC may use alternative meeting methods, such as phone or video conferencing and the use of electronic signatures that adhere to district policy.

(g) Upon a student's initial enrollment in a Texas public school [~~schools~~] , a student's transfer from a previous Texas public school district, transfer from an out-of-state public school district, and at the end of each school year, the LPAC shall review all pertinent information on all potential and identified EB students, including EB students with a parental denial of program participation, in accordance with §89.1226 of this title (relating to Testing and Classification of Students).

(1) For students initially enrolling in Texas public schools, the LPAC shall:

(A) designate the language proficiency level of each EB student in accordance with the guidelines issued pursuant to §89.1226(b)-(f) of this title;

(B) recommend, subject to parental approval, the initial instructional placement of each EB student in the required bilingual or ESL program without restricting access due to scheduling, staffing, or class size constraints; and

(C) facilitate the participation of EB students in other programs for which they are eligible while ensuring full access to the language program required under TEC, §29.053.

(2) For transferring in-state students or for a student transferring from an out-of-state public school district who was previously enrolled in a Texas public school district within the last 12 months , the LPAC shall:

(A) review permanent record and LPAC documentation from the previous Texas school district to determine if the student has been identified as an EB student based on the original home language survey and initial identification process;

(B) identify previous program participation with parental approval and recommend appropriate program placement based on student data and available program models or determine the need for monitoring of students who have previously met reclassification and are in their first two years of monitoring;

(C) inform parents who have previously denied program services of recommended bilingual or ESL programs available in the current district;

(D) review linguistic progress and academic achievement data of each EB student to inform instructional practices; and

(E) facilitate the participation of EB students in other programs for which they are eligible while ensuring full access to the language program required under TEC, §29.053.

(3) For a student transferring from an out-of-state public school district who was previously identified as an EB student in a Texas public school district and more than 12 months has elapsed--measured from the first day of the current school year--since their EB identification in Texas, the LPAC shall review permanent record and LPAC documentation from the previous Texas school district to identify previous program participation, and:

(A) if records indicate the student's parents previously denied program participation in Texas, the district will inform the parent of bilingual or ESL programs available in the current district and distribute a new home language survey only if the parent consents to such distribution; or

(B) if records from the previous Texas school district indicate the student did participate in a program in Texas, the LPAC shall review records from the most recent out-of-state school in which the student was enrolled to determine if the student was reclassified under that state's criteria.

*(i)* If the student met reclassification criteria in the other state, the LPAC shall determine the need for monitoring if the student would be in their first two years of monitoring under Texas standards.

*(ii)* If the student did not meet reclassification criteria in the other state, or if the records are unclear or unavailable, the district shall begin the identification process again with a new home language survey.

(4) [~~(3)~~] At the end of the school year, for all identified EB students, including EB students with a parental denial of program participation, the LPAC shall:

(A) review English language proficiency progress and academic achievement data in English for ESL program students;

(B) review English and home/partner language progress as well as academic achievement data in English and the home/partner language for bilingual program students;

(C) reclassify eligible EB students as English proficient in accordance with the criteria described in §89.1226(i) of this title;

(D) recommend exit from program of reclassified English proficient students, pending parental approval, or continuation of program participation for reclassified students participating in a dual

language immersion one-way or two-way program model, according to the goals of the program; and

(E) prepare parental reports on student progress for all identified EB students to be provided to parents within the first 30 calendar days after the beginning of the next school year, which include data on linguistic and academic progress, benefits of bilingual or ESL program participation, and the criteria for reclassification as English proficient.

(h) The LPAC shall give written notice to the student's parent, informing the parent that the student has been identified as an EB student and requesting approval to place the student in the required bilingual or ESL program not later than the 10th calendar day after the date of the student's identification in accordance with TEC, §29.056. The notice shall include information about the benefits of the recommended bilingual or ESL program and that it is an integral part of the school program.

(i) Before the administration of the state criterion-referenced test each year, the LPAC shall determine the appropriate assessment option for each EB student as outlined in Chapter 101, Subchapter AA, of this title (relating to Commissioner's Rules Concerning the Participation of English Language Learners in State Assessments).

(j) Pending completion of the identification process, receipt of LPAC documentation for transferring students, or parental approval of an identified EB student's placement into the bilingual or ESL program recommended by the LPAC, the school district shall place the student in the recommended program. Only EB students with parental approval for bilingual or ESL program participation will be included in the bilingual education allotment (BEA).

(k) The LPAC shall monitor the academic progress of each student, including any student who previously had a parental denial of program participation, who has met criteria for reclassification in accordance with TEC, §29.056(g), for the first two years after reclassification. If the student earns a failing grade in a subject in the foundation curriculum under TEC, §28.002(a)(1), during any grading period in the first two school years after the student is reclassified, the LPAC shall determine, based on the student's English language acquisition needs, whether the student may require targeted instruction or, after careful consideration of multiple linguistic and academic data points, should be reconsidered for placement in a bilingual or ESL program. In accordance with TEC, §29.0561, the LPAC shall review the student's performance and consider, at a minimum, the following:

(1) the total amount of time the student was enrolled in a bilingual or ESL program;

(2) the student's grades each grading period in each subject in the foundation curriculum under TEC, §28.002(a)(1);

(3) the student's performance on each assessment instrument administered under TEC, §39.023(a) or (c);

(4) the number of credits the student has earned toward high school graduation, if applicable; and

(5) any disciplinary actions taken against the student under TEC, Chapter 37, Subchapter A (Alternative Settings for Behavior Management).

(l) The student's permanent record shall contain documentation of all actions impacting the EB student.

(1) Documentation shall include:

(A) the original home language survey;

(B) the identification as an EB student;

(C) the designation of the student's level of language proficiency;

(D) the recommendation of program placement;

(E) parental approval or denial of placement into the program;

(F) the date of placement in the program;

(G) assessment information as outlined in Chapter 101, Subchapter AA, of this title;

(H) additional instructional linguistic accommodations provided to address the specific language needs of the student;

(I) the date of reclassification and the date of exit from the program with parental approval; and

(J) the results of monitoring for academic success, including students formerly identified as EB students, as required under TEC, §29.063(c)(4).

(2) Current documentation as described in paragraph (1) of this subsection shall be forwarded in the same manner as other student records to another school district in which the student enrolls.

(m) A school district may place a student in or exit a student from a program without written approval of the student's parent if:

(1) the student is 18 years of age or has had the disabilities of minority removed;

(2) the parent provides approval through a phone conversation or e-mail that is documented in writing and retained; or

(3) an adult who the school district recognizes as standing in parental relation to the student provides written approval. This may include a foster parent or employee of a state or local governmental agency with temporary possession or control of the student.

*§89.1226. Testing and Classification of Students.*

(a) The single state-approved English language proficiency test for identification of emergent bilingual (EB) students described in subsection (c) of this section shall be used as part of the standardized, statewide identification process.

(b) Within four calendar weeks of initial enrollment in a Texas public school, a student with a language other than English indicated on the home language survey shall be administered the state-approved English language proficiency test for identification as described in subsection (c) of this section and shall be identified as an EB student and recommended for placement into the required bilingual or English as a second language (ESL) program in accordance with the criteria listed in subsection (f) of this section.

(c) To identify EB students, school districts shall administer to each student who has a language other than English as identified on the home language survey:

(1) in prekindergarten through Grade 1, the listening and speaking components of the state-approved English language proficiency test for identification; and

(2) in Grades 2-12, the listening, speaking, reading, and writing components of the state-approved English language proficiency test for identification.

(d) School districts that provide a bilingual program at the elementary grades shall administer a language proficiency test in the home language of the student who is eligible to be served in the bilingual program. If the home language of the student is Spanish, the school district shall administer the Spanish version of the state-approved lan-

guage proficiency test for identification. If a state-approved language proficiency test for identification is not available in the home language of the student, the school district shall determine the student's level of proficiency using informal oral language assessment measures.

(e) All language proficiency testing shall be administered by professionals or paraprofessionals who are proficient in the language of the test and trained in the language proficiency testing requirements of the test publisher.

(f) For placement into a bilingual or ESL program, a student shall be identified as an EB student using the following criteria.

(1) In prekindergarten through Grade 1, the student's score(s) from the listening and/or speaking components on the state-approved English language proficiency test for identification is/are below the level designated for indicating English proficiency.

(2) In Grades 2-12, the student's score(s) from the listening, speaking, reading, and/or writing components on the state-approved English language proficiency test for identification is/are below the level designated for indicating English proficiency.

(g) A student shall be identified as EB if the student's beginning English language skills interfere with the completion of the English language proficiency assessment described in subsection (c) of this section.

(h) The Language Proficiency Assessment Committee (LPAC), in conjunction with the admission, review, and dismissal (ARD) committee, shall identify a student as EB if the student's disability(ies) [~~disabilities~~] interfere with the completion of the English language proficiency assessment described in subsection (c) of this section. The bilingual or ESL program placement recommendation shall be determined by the LPAC, in conjunction with the ARD committee, in accordance with §89.1220(f) of this title (relating to Language Proficiency Assessment Committee (LPAC)), ensuring access to both the bilingual or ESL program and the special education and related services needed to provide a free, appropriate public education as identified in the student's individualized education program.

(i) An EB student enrolled in prekindergarten-Grade 12 may be reclassified as English proficient only at the end of the school year in which a student routinely demonstrates readiness for reclassification as English proficient and the ability to successfully participate in grade level content instruction that is delivered with no second language acquisition supports. EB students, including those with parental denials, are eligible for linguistic or non-linguistic based designated supports or accommodations on the state criterion-referenced English language arts and reading assessment instrument when recommended by the LPAC or any other committee. These designated supports or accommodations do not prevent an EB student from meeting reclassification criteria. An EB student reclassifies as English proficient when all three of the following criteria are met:

(1) a composite proficiency rating, which includes ratings in the areas of listening, speaking, reading, and writing, on the state-approved English language proficiency test for reclassification that is designated for indicating English proficiency . For prekindergarten students, the composite proficiency rating includes ratings in the areas of listening and speaking;

(2) passing standard met on the English language arts and reading assessment instrument under Texas Education Code (TEC), §39.023(a) or (c), or, for students at grade levels not assessed by the aforementioned assessment instruments, a score at or above the 40th percentile on both the English reading and the English language arts sections of the state-approved norm-referenced standardized achievement instrument; and

(3) the results of a subjective teacher evaluation using the state's standardized rubric.

[~~(j) An EB student may be reclassified as English proficient in prekindergarten or Kindergarten. A school district shall ensure that EB students are prepared to meet academic standards required by TEC, §28.0211.~~]

(j) [~~(k)~~] For EB students who are also eligible for special education services, the standardized process for student reclassification is followed in accordance with applicable provisions of subsection (i) of this section. However, annual meetings to review student progress and make recommendations for reclassification shall be made in all instances by the LPAC, in conjunction with the ARD committee, in accordance with §89.1230(b) of this title (relating to Eligible Students with Disabilities). Additionally, the LPAC, in conjunction with the ARD committee, shall determine participation and designated support or accommodation decisions on state criterion-referenced and English language proficiency assessments that differentiate between language proficiency and disabling conditions in accordance with §89.1230(a) of this title.

(k) An EB student with the most significant cognitive disability who is receiving special education services may be eligible to take the state's alternative criterion-referenced and alternative English language proficiency assessments. Dually identified students, like their non-disabled EB peers, are eligible to be reclassified as English proficient when they meet EB reclassification criteria at the end of the school year. The annual review of the student progress and decision to reclassify should be determined through focused coordination and collaboration of the LPAC and ARD committees.

[~~(l) For an EB student with a significant cognitive disability, the LPAC, in conjunction with the ARD committee, may recommend that the state's criterion-referenced and English language proficiency assessments used for reclassification are not appropriate because of the nature of the student's disabling condition. In these cases, the LPAC, in conjunction with the ARD committee, may recommend that the student take the state's alternate criterion-referenced and alternate English language proficiency assessments. Additionally, the LPAC, in conjunction with the ARD committee, may utilize the individualized reclassification process to determine appropriate performance standard requirements for the state standardized reading assessment and English language proficiency assessment by language domain under subsection (i)(1) of this section and utilize the results of a subjective teacher evaluation using the state's standardized alternate rubric.~~]

(l) [~~(m)~~] Notwithstanding §101.101 of this title (relating to Group-Administered Tests), all tests used for the purpose of identification and reclassification of students and approved by TEA shall be re-normed at least every eight years.

*§89.1227. Minimum Requirements for Dual Language Immersion Program Model.*

(a) A one-way or two-way dual language immersion (DLI) program model shall address all curriculum requirements specified in Chapter 74, Subchapter A, of this title (relating to Required Curriculum) in the program's partner language and English.

(b) A DLI program model shall be a full-time program of academic instruction in the program's partner language and English for all program participants, emphasizing the participation of identified emergent bilingual (EB) students. Access to the DLI program shall not be restricted based on race, creed, color, religious affiliation, age, or disability.

(c) A DLI program model shall provide educational access and [~~equitable,~~] authentic resources in English and the program's partner language to ensure development of bilingualism and biliteracy.

(d) The district shall develop a language allocation plan that ensures a minimum of 50% of content area instructional time is provided in the program's partner language for the duration of the program.

(e) Program implementation shall:

(1) begin at prekindergarten, Kindergarten, or Grade 1, as applicable, according to the district's earliest grade level provided;

(2) continue without interruption incrementally through the elementary grades;

(3) consider expansion to middle school and high school whenever possible; and

(4) include participation of former emergent bilingual students who have reclassified as English proficient for the duration of the program.

(f) A DLI program model shall be developmentally appropriate and based on current best practices identified in research. Particularly, EB students shall not be restricted access to a one-way or two-way DLI program model based on any linguistic or academic achievement measures in the program's partner language or English.

*§89.1228. Two-Way Dual Language Immersion Program Model Implementation.*

(a) Student enrollment in a two-way dual language immersion (DLI) program model is optional for non-emergent bilingual (EB) students in accordance with §89.1233(a) of this title (relating to Participation of Non-Emergent Bilingual Students).

(b) A two-way DLI program model shall fully disclose candidate selection criteria and ensure that access to the program is not based on race, creed, color, religious affiliation, age, or disability. Additionally, identified and reclassified EB students and non-EB students shall not be restricted access to the two-way DLI program model based on any linguistic or academic achievement measures in the program's partner language or English.

(c) A school district implementing a two-way DLI program model shall develop a policy for enrollment and continuation for students in this program model. The policy shall address:

(1) program [~~equitable~~] access, including the program's intention to maintain a ratio of 50% EB students to 50% non-EB students and have no more than two-thirds speakers of the partner language to one-third speakers of English in each classroom;

(2) support of program benefits and goals as stated in §89.1210 of this title (relating to Program Content and Design);

(3) the district's commitment to providing required [~~equitable~~] access to services for EB students and to ensuring continuity of program for all program participants;

(4) the program's language allocation plan for the grade levels in which the program will be implemented; and

(5) expectations for students, families, and district and campus stakeholders.

(d) A school district implementing a two-way DLI program model shall obtain written parental approval as follows.

(1) For EB students, written parental approval is obtained in accordance with §89.1240 of this title (relating to Parental Authority and Responsibility).

(2) For non-EB students, written parental approval is obtained through a school district-developed process.

(e) A school district implementing a two-way DLI program model shall determine the appropriate assessment option for program participants as follows.

(1) For EB students, the Language Proficiency Assessment Committee (LPAC) shall convene before the administration of the state criterion-referenced test each year to determine the appropriate assessment option for each EB student in accordance with §89.1220(i) of this title (relating to Language Proficiency Assessment Committee (LPAC)).

(2) For reclassified EB students and non-EB students, the appropriate assessment option for the administration of the state criterion-referenced test each year is determined by the LPAC or through a school district-developed process.

*§89.1230. Eligible Dually Identified Students [~~with Disabilities~~].*

(a) For students with disabilities, school districts shall utilize the state's criteria for identification of emergent bilingual (EB) students as described in §89.1226(f) of this title (relating to Testing and Classification of Students) and shall establish placement procedures that ensure that the placement recommendation by the Language Proficiency Assessment Committee (LPAC), in conjunction with the admission, review, and dismissal (ARD) committee, in a bilingual or English as a second language program is not refused based on the student's disability [~~disabling condition~~].

(b) LPAC members shall meet in conjunction with ARD committee members to review progress and provide recommendations regarding the educational needs of each dually identified [~~EB~~] student [~~who also qualifies for services in the school district's special education program~~].

*§89.1235. Facilities.*

(a) Bilingual and English as a second language (ESL) programs shall be located in the public schools of the school district with [~~equitable~~] access to all educational resources rather than in separate facilities.

(b) In order to provide the required bilingual or ESL programs, school districts may cluster the programs at designated facilities within the school district.

(c) Recent immigrant emergent bilingual students shall not remain enrolled in newcomer centers for longer than two years.

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

Filed with the Office of the Secretary of State on July 27, 2026.

TRD-202603146
Cristina De La Fuente-Valadez
Director, Rulemaking
Texas Education Agency
Earliest possible date of adoption: September 6, 2026
For further information, please call: (512) 463-9526

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# TITLE 22. EXAMINING BOARDS

# PART 30. TEXAS STATE BOARD OF EXAMINERS OF PROFESSIONAL COUNSELORS

## CHAPTER 681. PROFESSIONAL COUNSELORS

## SUBCHAPTER C. APPLICATION AND LICENSING

### 22 TAC §681.91

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Licensed Professional Counselors propose amendments to §681.91, relating to LPC Associate License.

Overview and Explanation of the Proposed Rule. The proposed amendments will clarify rule language regarding supervised LPC Associate practice into more plain, direct language. The amendments confirm that a person cannot provide counseling services without a proper license and that an Associate may own and operate a private practice only under supervision. The amendments require Associates to notify the supervisors of any pending complaints against the Associate, and to share a copy of remediation plans with supervisors.

Fiscal Note. Darrel D. Spinks, Executive Director of the Executive Council, has determined that for the first five-year period the proposed rule is in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rule. Additionally, Mr. Spinks has determined that enforcing or administering the rule does not have foreseeable implications relating to the costs or revenues of state or local government.

Public Benefit. Mr. Spinks has determined for the first five-year period the proposed rule is in effect there will be a benefit to licensees, applicants, and the general public because the proposed rule will provide greater clarity and consistency in the Executive Council's rules. Mr. Spinks has also determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be to help the Executive Council protect the public.

Probable Economic Costs. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no additional economic costs to persons required to comply with this rule.

Small Business, Micro-Business, and Rural Community Impact Statement. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities. Mr. Spinks has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

Local Employment Impact Statement. Mr. Spinks has determined that the proposed rule will have no impact on local employment or a local economy. Thus, the Executive Council is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

Requirement for Rules Increasing Costs to Regulated Persons. The proposed rule does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rule is necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

Government Growth Impact Statement. For the first five-year period the proposed rule is in effect, the Executive Council estimates that the proposed rule will have no effect on government growth. The proposed rule does not create or eliminate a government program; it does not require the creation or elimination of employee positions; it does not require the increase or decrease in future legislative appropriations to this agency; it does not require an increase or decrease in fees paid to the agency; it does not create a new regulation; it does not expand an existing regulation; it does not increase or decrease the number of individuals subject to the rule's applicability; and it does not positively or adversely affect the state's economy.

Takings Impact Assessment. Mr. Spinks has determined that there are no private real property interests affected by the proposed rule. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

Request for Public Comments. Comments on the proposed rule may be submitted by mail to Brenda Skiff, Staff Services Officer, Texas Behavioral Health Executive Council, 1801 Congress Ave., Ste. 7.300, Austin, Texas 78701 or via https://www.bhec.texas.gov/proposed-rule-changes-and-the-rulemaking-process/. The deadline for receipt of comments is 5:00 p.m., Central Time, on September 6, 2026, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

Applicable Legislation. This rule is proposed pursuant to the specific legal authority granted to the Executive Council by H.B. 1501, 86th Leg., R.S. (2019).

Statutory Authority. The rule is proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §503.2015 of the Tex. Occ. Code the Texas State Board of Examiners of Professional Counselors previously voted and, by a majority, approved to propose this rule to the Executive Council. The rule is specifically authorized by §503.2015 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also proposes this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 503 and 507 of the Texas Occupations Code and may propose this rule.

Lastly, the Executive Council proposes this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

*§681.91. LPC Associate License.*

(a) The Council may issue an LPC Associate license to an applicant who has:

(1) filed all application forms and paid all applicable fees;

(2) met all of the academic requirements for licensure;

(3) completed the required examinations with the requisite score as described in §681.72(a)(3) and (4) [~~681.72(a)(3) and (a)(4)~~] of this title [~~(relating to Required Application Materials)~~];

(4) entered into a supervisory agreement with a Licensed Professional Counselor Supervisor (LPC-S); and

(5) not completed the supervised experience described in §681.92 of this title [~~(relating to Experience Requirements (Internship))~~].

(b) An LPC Associate must comply with all provisions of the Act and Council rules.

(c) A [~~To practice counseling in Texas, a~~] person must obtain an LPC Associate license before practicing counseling in Texas under supervision to gain hours toward the supervised experience required for an LPC license [~~the person begins an internship or continues an internship~~]. Hours obtained by an unlicensed person in any setting will not count toward the supervised experience requirements.

(d) An LPC Associate may practice counseling [~~only as part of his or her internship and~~] only under the supervision of a Licensed Professional Counselor Supervisor (LPC-S). The LPC Associate shall not engage in independent practice, but may own and operate a private practice while under supervision.

(e) An LPC Associate may have no more than two (2) Council-approved LPC supervisors at any given time.

(f) An LPC Associate must maintain their LPC Associate license during his or her supervised experience.

(g) An LPC Associate license will expire 60 months from the date of issuance.

(h) An LPC Associate who does not complete the required supervised experience hours during the 60-month time period must reapply for licensure to continue accruing supervised experience.

(i) An LPC Associate must continue to be supervised after completion of the 3,000 hours of supervised experience and until the LPC Associate receives an [~~his or her~~] LPC license. Supervision is complete upon the LPC Associate receiving the LPC license.

(j) During supervised clinical experience, both supervisors and LPC Associates may have disciplinary actions taken against their licenses for violations of the Act, the Council Act, or council rules. Within 15 business days of receiving notice of a pending complaint against them, LPC Associates must notify their supervisors of the complaint.

(k) [~~(j)~~] The possession, access, retention, control, maintenance, and destruction of client records is the responsibility of the person or entity that employs or contracts with the LPC Associate, or in those cases where the LPC Associate is self-employed, the responsibility of the LPC Associate [~~LPC-Associate~~].

(l) [~~(k)~~] An LPC Associate must not employ a supervisor but may compensate the supervisor for time spent in supervision if the supervision is not a part of the supervisor's responsibilities as a paid employee of an agency, institution, clinic, or other business entity.

(m) If an LPC Associate receives a supervision remediation plan described in §681.93(e) of this title, the Associate must provide a copy of the remediation plan to any other current supervisors. The LPC Associate must also provide a copy of any unresolved remediation plans when beginning supervision with a new supervisor.

(n) [~~(l)~~] All billing documents for services provided by an LPC Associate must reflect the LPC Associate holds an LPC Associate license and is under supervision.

(o) [~~(m)~~] The LPC Associate must not represent himself or herself as an independent practitioner. The LPC Associate's name must be followed by a statement such as "supervised by (name of supervisor)" or a statement of similar effect, together with the name of the supervisor. This disclosure must appear on all marketing materials, billing documents, and practice related forms and documents where the LPC Associate's name appears, including websites and intake documents.

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

Filed with the Office of the Secretary of State on July 23, 2026.

TRD-202603110
Darrel Spinks
Executive Director
Texas State Board of Examiners of Professional Counselors
Earliest possible date of adoption: September 6, 2026
For further information, please call: (512) 305-7706

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## 22 TAC §681.92

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Licensed Professional Counselors propose amendments to §681.92, relating to Experience Requirements.

Overview and Explanation of the Proposed Rule. The proposed amendments will clarify terminology to distinguish between university-based internships and post-graduate supervised experience. The amendments also remove the outdated term "council-approved supervisor." The amendments require LPC associates to receive an average, rather than a minimum, of four hours per month of supervision. Finally, the amendments add a provision allowing an applicant with both a qualifying masters

and doctoral degree to count supervised experience gained during the doctoral degree toward post-graduate supervised experience requirements.

Fiscal Note. Darrel D. Spinks, Executive Director of the Executive Council, has determined that for the first five-year period the proposed rule is in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rule. Additionally, Mr. Spinks has determined that enforcing or administering the rule does not have foreseeable implications relating to the costs or revenues of state or local government.

Public Benefit. Mr. Spinks has determined for the first five-year period the proposed rule is in effect there will be a benefit to licensees, applicants, and the general public because the proposed rule will provide greater clarity and consistency in the Executive Council's rules. Mr. Spinks has also determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be to help the Executive Council protect the public.

Probable Economic Costs. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no additional economic costs to persons required to comply with this rule.

Small Business, Micro-Business, and Rural Community Impact Statement. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities. Mr. Spinks has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

Local Employment Impact Statement. Mr. Spinks has determined that the proposed rule will have no impact on local employment or a local economy. Thus, the Executive Council is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

Requirement for Rules Increasing Costs to Regulated Persons. The proposed rule does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rule is necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

Government Growth Impact Statement. For the first five-year period the proposed rule is in effect, the Executive Council estimates that the proposed rule will have no effect on government growth. The proposed rule does not create or eliminate a government program; it does not require the creation or elimination of employee positions; it does not require the increase or decrease in future legislative appropriations to this agency; it does not require an increase or decrease in fees paid to the agency; it does not create a new regulation; it does not expand an existing regulation; it does not increase or decrease the number of individuals subject to the rule's applicability; and it does not positively or adversely affect the state's economy.

Takings Impact Assessment. Mr. Spinks has determined that there are no private real property interests affected by the proposed rule. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

Request for Public Comments. Comments on the proposed rule may be submitted by mail to Brenda Skiff, Staff Services Officer, Texas Behavioral Health Executive Council, 1801 Congress Ave., Ste. 7.300, Austin, Texas 78701 or via https://www.bhec.texas.gov/proposed-rule-changes-and-the-rulemaking-process/. The deadline for receipt of comments is 5:00 p.m., Central Time, on September 6, 2026, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

Applicable Legislation. This rule is proposed pursuant to the specific legal authority granted to the Executive Council by H.B. 1501, 86th Leg., R.S. (2019).

Statutory Authority. The rule is proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §503.2015 of the Tex. Occ. Code the Texas State Board of Examiners of Professional Counselors previously voted and, by a majority, approved to propose this rule to the Executive Council. The rule is specifically authorized by §503.2015 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also proposes this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 503 and 507 of the Texas Occupations Code and may propose this rule.

Lastly, the Executive Council proposes this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

*§681.92. Experience Requirements.*

(a) All applicants for LPC licensure must complete supervised experience acceptable to the Council of 3,000 clock-hours under a qualified LPC [~~Council-approved~~] supervisor.

(1) All supervised experience [~~internships physically~~] occurring in Texas must be completed under the supervision of an LPC with supervisor status. [a ~~Council-approved supervisor.~~]

(2) For all supervised experience [~~internships physically~~] completed in a jurisdiction other than Texas, the supervisor must be a person licensed or certified by that jurisdiction in a profession that provides counseling and who has the academic training and experience to supervise the counseling services offered by the Associate. The applicant must provide documentation acceptable to the Council regarding the supervisor's qualifications.

(b) The supervised experience must include at least 1,500 clock-hours of direct client counseling contact. Only actual time spent counseling may be counted.

(c) An LPC Associate may not complete the required 3,000 clock-hours of supervised experience in less than 18 months.

(d) The experience must consist primarily of the provision of direct counseling services within a professional relationship to clients by using a combination of mental health and human development principles, methods, and techniques to achieve the mental, emotional, physical, social, moral, educational, spiritual, or career-related development and adjustment of the client throughout the client's life.

(e) The LPC Associate must receive direct supervision consisting of an average [~~a minimum~~] of four (4) hours per month of supervision in individual (up to two Associates) or group (three or more) settings while the Associate is engaged in counseling unless an extended leave of one month or more is approved in writing by the [~~Council approved~~] supervisor. No more than 50% of the total hours of supervision may be received in group supervision.

(f) Applicants with a master's degree that qualifies under §681.82 and §681.83 of this title, may count any supervision and experience (e.g., practicum, internship, externship) completed after conferral of the master's degree and as part of a doctoral program toward the supervision and experience requirements. The doctoral program must lead to a degree that qualifies under §681.82 and §681.83 of this title, before the Council will award credit for supervision and experience under this provision.

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

Filed with the Office of the Secretary of State on July 23, 2026.

TRD-202603112
Darrel Spinks
Executive Director
Texas State Board of Examiners of Professional Counselors
Earliest possible date of adoption: September 6, 2026
For further information, please call: (512) 305-7706

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**22 TAC §681.93**

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Licensed Professional Counselors propose amendments to §681.93, relating to Supervisor Requirements.

Overview and Explanation of the Proposed Rule. The proposed amendments will require an LPC supervisor to establish a plan for the custody and control of supervision records in the event of death or incapacity. The amendments prohibit a supervisor from receiving compensation for supervision if that supervision is already part of their paid responsibilities. The amendments also clarify the actions a supervisor must take if their supervisor status is revoked.

Fiscal Note. Darrel D. Spinks, Executive Director of the Executive Council, has determined that for the first five-year period the proposed rule is in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rule. Additionally, Mr. Spinks has determined that enforcing or administering the rule does not have foreseeable implications relating to the costs or revenues of state or local government.

Public Benefit. Mr. Spinks has determined for the first five-year period the proposed rule is in effect there will be a benefit to licensees, applicants, and the general public because the proposed rule will provide greater clarity and consistency in the Executive Council's rules. Mr. Spinks has also determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be to help the Executive Council protect the public.

Probable Economic Costs. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no additional economic costs to persons required to comply with this rule.

Small Business, Micro-Business, and Rural Community Impact Statement. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities. Mr. Spinks has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

Local Employment Impact Statement. Mr. Spinks has determined that the proposed rule will have no impact on local employment or a local economy. Thus, the Executive Council is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

Requirement for Rules Increasing Costs to Regulated Persons. The proposed rule does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rule is necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

Government Growth Impact Statement. For the first five-year period the proposed rule is in effect, the Executive Council estimates that the proposed rule will have no effect on government growth. The proposed rule does not create or eliminate a government program; it does not require the creation or elimination of employee positions; it does not require the increase or decrease in future legislative appropriations to this agency; it does not require an increase or decrease in fees paid to the agency; it does not create a new regulation; it does not expand an existing regulation; it does not increase or decrease the number of individuals subject to the rule's applicability; and it does not positively or adversely affect the state's economy.

Takings Impact Assessment. Mr. Spinks has determined that there are no private real property interests affected by the proposed rule. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

Request for Public Comments. Comments on the proposed rule may be submitted by mail to Brenda Skiff, Staff Services Officer, Texas Behavioral Health Executive Council, 1801 Congress Ave., Ste. 7.300, Austin, Texas 78701 or via https://www.bhec.texas.gov/proposed-rule-changes-and-the-rulemaking-process/. The deadline for receipt of comments is 5:00 p.m., Central Time, on September 6, 2026, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

Applicable Legislation. This rule is proposed pursuant to the specific legal authority granted to the Executive Council by H.B. 1501, 86th Leg., R.S. (2019).

Statutory Authority. The rule is proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §503.2015 of the Tex. Occ. Code the Texas State Board of Examiners of Professional Counselors previously voted and, by a majority, approved to propose this rule to the Executive Council. The rule is specifically authorized by §503.2015 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also proposes this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 503 and 507 of the Texas Occupations Code and may propose this rule.

Lastly, the Executive Council proposes this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

*§681.93. Supervisor Requirements*

(a) A supervisor must keep a written record of each supervisory session in the file for the LPC Associate.

(1) The supervisory written record must contain:

(A) a signed and dated copy of the Council's supervisory agreement form for [~~each of~~] the LPC Associate [~~Associate's supervisors~~];

(B) a copy of the LPC Associate's online license verification noting the dates of issuance and expiration;

(C) fees and record of payments [~~payment~~];

(D) the date of each supervisory session;

(E) a record of an LPC Associate's leave of one month or more, documenting the supervisor's approval and signed by both the LPC Associate and the supervisor;

(F) a record of any concerns the supervisor discussed with the LPC Associate, including a written remediation plan as prescribed in subsection (e) of this section; and

(G) a record of acknowledgement that the supervisee is self-employed, if applicable.

(2) The supervisor must provide a copy of all records to the LPC Associate upon request. The supervisor shall establish a plan for the custody and control of the records of supervision for the LPC Associate in the event of the supervisor's death or incapacity or termination of the supervisor's practice.

(b) Both the LPC Associate [~~LPC-Associate~~] and the LPC supervisor [~~supervising~~ ~~LPC-S~~] are fully responsible for the professional counseling activities of the LPC Associate [~~LPC-Associate~~]. The LPC supervisor [~~LPC- S~~] may be subject to disciplinary action for violations that relate only to the professional practice of counseling committed by the LPC Associate [~~LPC-Associate~~] which the LPC supervisor [~~LPC-S~~] knew about or due to the oversight nature of the supervisory relationship should have known about.

(1) Supervisors must review all provisions of the Act and Council rules in this chapter during supervision.

(2) The supervisor must ensure the LPC Associate is aware of and adheres to all provisions of the Act and Council rules.

(c) The supervisor must avoid any relationship that impairs the supervisor's objective, professional judgment.

(1) The supervisor may not be related to the LPC Associate within the second degree of affinity or within the third degree of consanguinity.

(2) The supervisor may not be an employee of his or her LPC Associate.

(3) A supervisor may not receive additional compensation for time spent in supervision if the supervision is part of the supervisor's responsibilities as a paid employee of an agency, institution, clinic, or other business entity.

(d) The supervisor must submit to the Council accurate documentation of the LPC Associate's supervised experience within 30 days of the end of supervision or the completion of the LPC Associate's required hours, whichever comes first.

(e) If a supervisor determines the LPC Associate may not have the counseling skills or competence to practice professional counseling under an LPC license, the supervisor will develop and implement a written plan for remediation of the LPC Associate, which must be reviewed and signed by the LPC Associate and maintained as part of the LPC Associate's file.

(f) The supervisor must ensure the supervised counseling experience of the LPC Associate were earned:

(1) after the LPC Associate license was issued; and

(2) in not less than 18 months of supervised counseling experience.

(g) A supervisor whose license has expired is no longer an approved supervisor and:

(1) must immediately inform all LPC Associates under his or her supervision and assist the LPC Associates in finding alternate supervisors; and

(2) must refund all supervisory fees for supervision after the expiration of the supervisor status.

(3) Hours accumulated under the person's supervision after the date of license expiration may not count as acceptable hours.

(h) Upon execution of a Council order for probated suspension, suspension, or revocation of the LPC license with supervisor status, the supervisor status is revoked. Hours accumulated under the person's supervision after the date the supervisor status is revoked may not count as acceptable hours, except upon a showing of good cause to the Council. A licensee whose supervisor status is revoked:

(1) must immediately inform all LPC Associates under his or her supervision and assist the LPC Associates in finding alternate supervisors; and

(2) must refund all supervisory fees for supervision after the date the supervisor status is revoked; and

(3) may reapply for supervisor status by submitting an application that shows the licensee has met the terms of any disciplinary order, has held their license in good standing for 60-months following the date of execution of the order, and has completed a 40-hour approved supervisor training course taken no earlier than the date of execution of the order. [~~hours accumulated under the person's supervision after the date of license expiration may not count as acceptable hours.~~]

(i) Supervision of an LPC Associate without having Council approved supervisor status is grounds for disciplinary action.

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

Filed with the Office of the Secretary of State on July 23, 2026.

TRD-202603113
Darrel Spinks
Executive Director
Texas State Board of Examiners of Professional Counselors
Earliest possible date of adoption: September 6, 2026
For further information, please call: (512) 305-7706

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# PART 35. TEXAS STATE BOARD OF EXAMINERS OF MARRIAGE AND FAMILY THERAPISTS

## CHAPTER 801. LICENSURE AND REGULATION OF MARRIAGE AND FAMILY THERAPISTS

## SUBCHAPTER A. GENERAL PROVISIONS

### 22 TAC §801.2

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Marriage and Family Therapist propose amendments to §801.2, relating to Definitions.

Overview and Explanation of the Proposed Rule. The proposed amendment will expand the definition of professional services enhanced through use of technology and change the term to "technology-supported services." The amendments would also add the term "virtual practice" and provide a definition.

Fiscal Note. Darrel D. Spinks, Executive Director of the Executive Council, has determined that for the first five-year period the proposed rule is in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rule. Additionally, Mr. Spinks has determined that enforcing or administering the rule does not have foreseeable implications relating to the costs or revenues of state or local government.

Public Benefit. Mr. Spinks has determined for the first five-year period the proposed rule is in effect there will be a benefit to applicants, licensees, and the general public because the proposed rule will provide greater clarity, consistency, and efficiency in the Executive Council's rules. Mr. Spinks has also determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be to help the Executive Council protect the public.

Probable Economic Costs. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no additional economic costs to persons required to comply with this rule.

Small Business, Micro-Business, and Rural Community Impact Statement. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities. Mr. Spinks has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

Local Employment Impact Statement. Mr. Spinks has determined that the proposed rule will have no impact on local employment or a local economy. Thus, the Executive Council is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

Requirement for Rules Increasing Costs to Regulated Persons. The proposed rule does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rule is necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

Government Growth Impact Statement. For the first five-year period the proposed rule is in effect, the Executive Council estimates that the proposed rule will have no effect on government growth. The proposed rule does not create or eliminate a government program; it does not require the creation or elimination

of employee positions; it does not require the increase or decrease in future legislative appropriations to this agency; it does not require an increase or decrease in fees paid to the agency; it does not create a new regulation; it does not expand an existing regulation; it does not increase or decrease the number of individuals subject to the rule's applicability; and it does not positively or adversely affect the state's economy.

Takings Impact Assessment. Mr. Spinks has determined that there are no private real property interests affected by the proposed rule. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

REQUEST FOR PUBLIC COMMENTS. Comments on the proposed rule may be submitted by mail to Brenda Skiff, Staff Services Officer, Texas Behavioral Health Executive Council, 1801 Congress Ave., Ste. 7.300, Austin, Texas 78701 or via https://www.bhec.texas.gov/proposed-rule-changes-and-the-rulemaking-process/. The deadline for receipt of comments is 5:00 p.m., Central Time, on September 6, 2026, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

Applicable Legislation. This rule is proposed pursuant to the specific legal authority granted to the Executive Council by H.B. 1501, 86th Leg., R.S. (2019).

Statutory Authority. The rule is proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §502.1515 of the Tex. Occ. Code the Texas State Board of Examiners of Marriage and Family Therapists previously voted and, by a majority, approved to propose this rule to the Executive Council. The rule is specifically authorized by §502.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also proposes this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 502 and 507 of the Texas Occupations Code and may propose this rule.

Lastly, the Executive Council also proposes this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

*§801.2. Definitions.*

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

(1) Accredited institutions or programs--An institution of higher education accredited by an accrediting agency recognized by the Council for Higher Education Accreditation, the Texas Higher Education Coordinating Board, or the United States Department of Education.

(2) Act--Texas Occupations Code, Chapter 502, the Licensed Marriage and Family Therapist Act.

(3) Board--The Texas State Board of Examiners of Marriage and Family Therapists.

(4) Client--An individual, family, couple, group, or organization who receives or has received services from a person identified as a marriage and family therapist who is either licensed by the council or unlicensed.

(5) Council--The Texas Behavioral Health Executive Council.

(6) Council Act--Texas Occupations Code, Chapter 507, concerning the Texas Behavioral Health Executive Council.

(7) Council rules--22 Texas Administrative Code, Chapters 801 and 881 to 885.

(8) Direct clinical services to couples or family--Professional services provided to couples or families in which a clinician delivers therapeutic services with two or more individuals simultaneously or two or more individuals from the same family system within the same therapeutic session. Individuals must share an ongoing relationship beyond that which occurs in the therapeutic experience itself. Examples of ongoing relationships include family systems, couple systems, enduring friendship/community support systems, and residential, treatment or situationally connected systems.

(9) Endorsement--The process whereby the council reviews licensing requirements that a license applicant completed while under the jurisdiction of an out-of-state marriage and family therapy regulatory board. The council may accept, deny or grant partial credit for requirements completed in a different jurisdiction.

(10) Executive director--The executive director for the Texas Behavioral Health Executive Council.

(11) Family system--An open, on-going, goal-seeking, self-regulating, social system which shares features of all such systems. Certain features such as its unique structuring of gender, race, nationality and generation set it apart from other social systems. Each individual family system is shaped by its own particular structural features (size, complexity, composition, and life stage), the psychobiological characteristics of its individual members (age, race, nationality, gender, fertility, health and temperament) and its socio-cultural and historic position in its larger environment.

(12) Group supervision--Supervision that involves a minimum of three and no more than six marriage and family therapy supervisees or LMFT Associates in a clinical setting during the supervision hour.

(13) Independent Practice--The practice of providing marriage and family therapy services to a client without the supervision of an LMFT-S.

(14) Individual supervision--Supervision of no more than two marriage and family therapy supervisees or LMFT Associates in a clinical setting during the supervision hour.

(15) Jurisprudence exam--An online learning experience based on the Act, the Council Act, and council rules, and other state laws and rules relating to the practice of marriage and family therapy.

(16) License--A marriage and family therapist license, a marriage and family therapist associate license, a provisional or temporary marriage and family therapist license, or a provisional marriage and family therapist associate license.

(17) Licensed marriage and family therapist (LMFT)--As defined in §502.002 of the Occupations Code, a person who offers marriage and family therapy for compensation.

(18) Licensed marriage and family therapist associate (LMFT Associate)--As defined in §502.002 of the Occupations Code, an individual who offers to provide marriage and family therapy for compensation under the supervision of a supervisor approved by the executive council. The appropriate council-approved terms to refer to an LMFT Associate are: "Licensed Marriage and Family Therapist Associate" or "LMFT Associate." Other terminology or abbreviations like "LMFT A" are not council-approved and may not be used.

(19) Licensee--Any person licensed by the council.

(20) Licensure examination--The national licensure examination administered by the Association of Marital and Family Therapy Regulatory Boards (AMFTRB) or the State of California marriage and family therapy licensure examination.

(21) Marriage and family therapy--The rendering of professional therapeutic services to clients, singly or in groups, and involves the professional application of family systems theories and techniques in the delivery of therapeutic services to those persons. The term includes the evaluation and remediation of cognitive, affective, behavioral, or relational dysfunction or processes.

(22) Month--A calendar month.

(23) Person--An individual, corporation, partnership, or other legal entity.

(24) Recognized religious practitioner--A rabbi, clergyman, or person of similar status who is a member in good standing of and accountable to a legally recognized denomination or legally recognizable religious denomination or legally recognizable religious organization and other individuals participating with them in pastoral counseling if:

(A) the therapy activities are within the scope of the performance of regular or specialized ministerial duties and are performed under the auspices of sponsorship of an established and legally recognized church, denomination or sect, or an integrated auxiliary of a church as defined in 26 CFR §1.6033-2(h) (relating to Returns by exempt organizations (taxable years beginning after December 31, 1969) and returns by certain nonexempt organizations (taxable years beginning after December 31, 1980));

(B) the individual providing the service remains accountable to the established authority of that church, denomination, sect, or integrated auxiliary; and

(C) the person does not use the title of or hold himself or herself out as a licensed marriage and family therapist.

(25) Supervision--

(A) Supervision for licensure--The guidance or management in the provision of clinical services by a marriage and family therapy supervisee or LMFT Associate, which must be conducted for at least one supervision hour each week, except for good cause shown.

(B) Supervision, Council-ordered--For the oversight and rehabilitation in the provision of clinical services by a licensee under a Council Order, defined by the Order and the Council-Ordered Supervision Plan, and must be conducted as specified in the Council Order and Supervision Plan (generally in face-to-face, one-on-one sessions).

(26) Supervision hour--50 minutes.

(27) Supervisor--An LMFT with supervisor status meeting the requirements set out in §801.143 of this title. The appropriate council-approved terminology to use in reference to a Supervisor is: "Supervisor," "Licensed Marriage and Family Therapist Supervisor," "LMFT-S" or "LMFT Supervisor." Other terminology or abbreviations may not be used.

(28) Technology-supported [~~assisted~~] services--The use of electronic, digital, or internet-based tools and platforms to provide, augment, or support the provision of professional services. Tools and platforms evolve over time and may include virtual practice, artificial intelligence, video or audio conferencing, virtual or augmented reality, mobile applications, wearable devices, and machine learning or analytics. The use of such tools or platforms constitutes technology-supported services regardless of the frequency or duration of use and regardless of whether directly experienced by the client, such as through telehealth, assessment or treatment tools, or communication platforms, or used by a licensee to indirectly support the provision of professional services, such as through record keeping, treatment planning, note taking, or diagnostic decision-making. [~~Providing therapy or supervision with technologies and devices for electronic communication and information exchange between a licensee in one location and a client or supervisee in another location.~~]

(29) Therapist--A person who holds a license issued by the council.

(30) Virtual practice-- Providing therapy or supervision with technologies and devices for electronic communication and information exchange between a licensee in one location and a client or supervisee in another location.

(31) [~~(30)~~] Waiver--The suspension of educational, professional, or examination requirements for an applicant who meets licensing requirements under special conditions.

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

Filed with the Office of the Secretary of State on July 23, 2026.

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Darrel Spinks
Executive Director
Texas State Board of Examiners of Marriage and Family Therapists
Earliest possible date of adoption: September 6, 2026
For further information, please call: (512) 305-7706

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## SUBCHAPTER B. RULES OF PRACTICE

### 22 TAC §801.44

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Marriage and Family Ther-

apist propose amendments to §801.44, relating to Relationship with Clients.

Overview and Explanation of the Proposed Rule. The proposed amendment will substitute the term "virtual services" for "technology-assisted services" in conjunction with changes made to other rules.

Fiscal Note. Darrel D. Spinks, Executive Director of the Executive Council, has determined that for the first five-year period the proposed rule is in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rule. Additionally, Mr. Spinks has determined that enforcing or administering the rule does not have foreseeable implications relating to the costs or revenues of state or local government.

Public Benefit. Mr. Spinks has determined for the first five-year period the proposed rule is in effect there will be a benefit to applicants, licensees, and the general public because the proposed rule will provide greater clarity, consistency, and efficiency in the Executive Council's rules. Mr. Spinks has also determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be to help the Executive Council protect the public.

Probable Economic Costs. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no additional economic costs to persons required to comply with this rule.

Small Business, Micro-Business, and Rural Community Impact Statement. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities. Mr. Spinks has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

Local Employment Impact Statement. Mr. Spinks has determined that the proposed rule will have no impact on local employment or a local economy. Thus, the Executive Council is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

Requirement for Rules Increasing Costs to Regulated Persons. The proposed rule does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rule is necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

Government Growth Impact Statement. For the first five-year period the proposed rule is in effect, the Executive Council estimates that the proposed rule will have no effect on government growth. The proposed rule does not create or eliminate a government program; it does not require the creation or elimination of employee positions; it does not require the increase or decrease in future legislative appropriations to this agency; it does not require an increase or decrease in fees paid to the agency; it does not create a new regulation; it does not expand an existing regulation; it does not increase or decrease the number of individuals subject to the rule's applicability; and it does not positively or adversely affect the state's economy.

Takings Impact Assessment. Mr. Spinks has determined that there are no private real property interests affected by the proposed rule. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

REQUEST FOR PUBLIC COMMENTS. Comments on the proposed rule may be submitted by mail to Brenda Skiff, Staff Services Officer, Texas Behavioral Health Executive Council, 1801 Congress Ave., Ste. 7.300, Austin, Texas 78701 or via https://www.bhec.texas.gov/proposed-rule-changes-and-the-rulemaking-process/. The deadline for receipt of comments is 5:00 p.m., Central Time, on September 6, 2026, which is at least 30 days from the date of publication of this proposal in the *Texas Register.*

Applicable Legislation. This rule is proposed pursuant to the specific legal authority granted to the Executive Council by H.B. 1501, 86th Leg., R.S. (2019).

Statutory Authority. The rule is proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §502.1515 of the Tex. Occ. Code the Texas State Board of Examiners of Marriage and Family Therapists previously voted and, by a majority, approved to propose this rule to the Executive Council. The rule is specifically authorized by §502.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also proposes this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 502 and 507 of the Texas Occupations Code and may propose this rule.

Lastly, the Executive Council also proposes this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

*§801.44. Relationship with Clients.*

(a) A licensee must provide marriage and family therapy professional services only in the context of a professional relationship.

(b) A licensee must make known in writing to a prospective client the important aspects of the professional relationship, including the licensee's status as an LMFT or LMFT Associate, any probationary status or other restrictions placed on the licensee by the council, office procedures, after-hours coverage, fees, and arrangements for payment (which might affect the client's decision to enter into the relationship).

(c) A licensee must obtain an appropriate consent for treatment before providing professional services. A licensee must make reasonable efforts to determine whether the conservatorship, guardianship, or parental rights of the client have been modified by a court. Before the commencement of therapy services to a minor client who is named in a custody agreement or court order, a licensee must obtain and review a current copy of the custody agreement or court order in a suit affecting the parent-child relationship. A licensee must maintain these documents in the client's record and abide by the documents at all times. When federal or state statutes provide an exemption to secure consent of a parent or guardian before providing services to a minor, such as in Texas Family Code, Chapter 32, a licensee must follow the protocol set forth in such federal or state statutes.

(d) A licensee must make known in writing to a prospective client the confidential nature of the client's disclosures and the clinical record, including the legal limitations of the confidentiality of the mental health record and information.

(e) No commission or rebate or any other form of remuneration may be given or received by a licensee for the referral of clients for professional services. A licensee employed or under contract with a chemical dependency facility or a mental health facility must comply with the requirements in Texas Health and Safety Code, §164.006.

(f) A licensee may not exploit the licensee's position of trust with a client or former client.

(g) A licensee may not engage in activities that seek to meet the licensee's personal needs instead of the needs of the client.

(h) A licensee may not provide marriage and family therapy services to family members, personal friends, educational associates, business associates, or others whose welfare might be jeopardized by such a dual relationship.

(i) A licensee must set and maintain professional boundaries with clients and former clients.

(j) A licensee may disclose confidential information to medical or law enforcement personnel if the licensee determines there is a probability of imminent physical injury by the client to the client or others or there is a probability of immediate mental or emotional injury to the client.

(k) In group therapy settings, the licensee must take reasonable precautions to protect individuals from physical or emotional trauma resulting from interaction within the group.

(l) A licensee must make a reasonable effort to avoid non-therapeutic relationships with clients or former clients. A non-therapeutic relationship is an activity begun by either the licensee, the client, or former client for the purposes of establishing a social, business, or other relationship not related to therapy. A licensee must ensure the welfare of the client or former client if a non-therapeutic relationship arises.

(m) A licensee may not bill clients or third parties for services not actually rendered or as agreed to in writing.

(n) A licensee must end a professional relationship when it is reasonably clear the client is not benefiting from it. Upon ending a professional relationship, if the client still requires mental health services, the licensee must make reasonable efforts to provide a written referral to clients for appropriate services and to facilitate the transfer to appropriate care.

(o) A licensee who engages in virtual practice [~~technology-assisted services~~] must provide the client with the licensee's license number and information on how to contact the council by telephone, electronic communication, or mail. The licensee must comply with all other provisions of this chapter.

(p) A licensee may not offer services that are beyond the licensee's professional competency, and the services provided must be within accepted professional standards of practice and appropriate to the needs of the client. In emerging areas in which generally recognized standards for preparatory training do not exist, licensees must take reasonable steps to ensure the competence of their work and to protect clients, research participants, and other affected individuals from the potential for harm.

(q) A licensee must base all services on an assessment, evaluation, or diagnosis of the client.

(r) A licensee must evaluate a client's progress on a continuing basis to guide service delivery and must make use of supervision and consultation as indicated by the client's needs.

(s) A licensee may not knowingly offer or provide professional services to an individual concurrently receiving professional services from another mental health services provider except with that provider's knowledge. If a licensee learns of such concurrent professional services, the licensee must immediately request release from the client to inform the other mental health services provider and strive to establish a positive and collaborative professional relationship.

(t) A licensee may not aid or abet the unlicensed practice of marriage and family therapy services by a person required to be licensed under the Act. A licensee must report to the council knowledge of any unlicensed practice.

(u) A licensee may not enter into a non-professional relationship with a client's family member or any person having a personal or professional relationship with a client, if the licensee knows or reasonably should have known such a relationship could be detrimental to the client.

(v) A licensee must refrain from providing services when they know or should know that their physical or mental health or lack of objectivity are likely to impair their competency or harm a client or other person with whom they have a professional relationship.

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

Filed with the Office of the Secretary of State on July 23, 2026.

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Darrel Spinks
Executive Director
Texas State Board of Examiners of Marriage and Family Therapists
Earliest possible date of adoption: September 6, 2026
For further information, please call: (512) 305-7706

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**22 TAC §801.47**

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Marriage and Family Ther-

apist propose amendments to §801.47, relating to Drug and Alcohol Use.

Overview and Explanation of the Proposed Rule. The proposed amendment will prohibit a licensee from encouraging the illegal use of drugs or alcohol by a supervisor or supervisee.

Fiscal Note. Darrel D. Spinks, Executive Director of the Executive Council, has determined that for the first five-year period the proposed rule is in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rule. Additionally, Mr. Spinks has determined that enforcing or administering the rule does not have foreseeable implications relating to the costs or revenues of state or local government.

Public Benefit. Mr. Spinks has determined for the first five-year period the proposed rule is in effect there will be a benefit to applicants, licensees, and the general public because the proposed rule will provide greater clarity, consistency, and efficiency in the Executive Council's rules. Mr. Spinks has also determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be to help the Executive Council protect the public.

Probable Economic Costs. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no additional economic costs to persons required to comply with this rule.

Small Business, Micro-Business, and Rural Community Impact Statement. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities. Mr. Spinks has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

Local Employment Impact Statement. Mr. Spinks has determined that the proposed rule will have no impact on local employment or a local economy. Thus, the Executive Council is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

Requirement for Rules Increasing Costs to Regulated Persons. The proposed rule does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rule is necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

Government Growth Impact Statement. For the first five-year period the proposed rule is in effect, the Executive Council estimates that the proposed rule will have no effect on government growth. The proposed rule does not create or eliminate a government program; it does not require the creation or elimination of employee positions; it does not require the increase or decrease in future legislative appropriations to this agency; it does not require an increase or decrease in fees paid to the agency; it does not create a new regulation; it does not expand an existing regulation; it does not increase or decrease the number of individuals subject to the rule's applicability; and it does not positively or adversely affect the state's economy.

Takings Impact Assessment. Mr. Spinks has determined that there are no private real property interests affected by the proposed rule. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

REQUEST FOR PUBLIC COMMENTS. Comments on the proposed rule may be submitted by mail to Brenda Skiff, Staff Services Officer, Texas Behavioral Health Executive Council, 1801 Congress Ave., Ste. 7.300, Austin, Texas 78701 or via https://www.bhec.texas.gov/proposed-rule-changes-and-the-rulemaking-process/. The deadline for receipt of comments is 5:00 p.m., Central Time, on September 6, 2026, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

Applicable Legislation. This rule is proposed pursuant to the specific legal authority granted to the Executive Council by H.B. 1501, 86th Leg., R.S. (2019).

Statutory Authority. The rule is proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §502.1515 of the Tex. Occ. Code the Texas State Board of Examiners of Marriage and Family Therapists previously voted and, by a majority, approved to propose this rule to the Executive Council. The rule is specifically authorized by §502.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also proposes this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 502 and 507 of the Texas Occupations Code and may propose this rule.

Lastly, the Executive Council also proposes this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

*§801.47. Drug and Alcohol Use.*

(a) A licensee may not use alcohol or drugs in a manner which adversely affects the licensee's ability to provide marriage and family therapy services.

(b) A licensee may not promote or encourage the illegal use of alcohol or drugs by a client, supervisee, or supervisor.

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

Filed with the Office of the Secretary of State on July 23, 2026.

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Darrel Spinks
Executive Director
Texas State Board of Examiners of Marriage and Family Therapists
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For further information, please call: (512) 305-7706

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**22 TAC §801.53**

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Marriage and Family Therapist propose amendments to §801.53, relating to Advertising and Announcements.

Overview and Explanation of the Proposed Rule. The proposed amendment will clarify that advertising restrictions apply regardless of the medium used for advertising.

Fiscal Note. Darrel D. Spinks, Executive Director of the Executive Council, has determined that for the first five-year period the proposed rule is in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rule. Additionally, Mr. Spinks has determined that enforcing or administering the rule does not have foreseeable implications relating to the costs or revenues of state or local government.

Public Benefit. Mr. Spinks has determined for the first five-year period the proposed rule is in effect there will be a benefit to applicants, licensees, and the general public because the proposed rule will provide greater clarity, consistency, and efficiency in the Executive Council's rules. Mr. Spinks has also determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be to help the Executive Council protect the public.

Probable Economic Costs. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no additional economic costs to persons required to comply with this rule.

Small Business, Micro-Business, and Rural Community Impact Statement. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities. Mr. Spinks has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

Local Employment Impact Statement. Mr. Spinks has determined that the proposed rule will have no impact on local employment or a local economy. Thus, the Executive Council is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

Requirement for Rules Increasing Costs to Regulated Persons. The proposed rule does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rule is necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

Government Growth Impact Statement. For the first five-year period the proposed rule is in effect, the Executive Council estimates that the proposed rule will have no effect on government growth. The proposed rule does not create or eliminate a government program; it does not require the creation or elimination of employee positions; it does not require the increase or decrease in future legislative appropriations to this agency; it does not require an increase or decrease in fees paid to the agency; it does not create a new regulation; it does not expand an existing regulation; it does not increase or decrease the number of individuals subject to the rule's applicability; and it does not positively or adversely affect the state's economy.

Takings Impact Assessment. Mr. Spinks has determined that there are no private real property interests affected by the proposed rule. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

REQUEST FOR PUBLIC COMMENTS. Comments on the proposed rule may be submitted by mail to Brenda Skiff, Staff Services Officer, Texas Behavioral Health Executive Council, 1801 Congress Ave., Ste. 7.300, Austin, Texas 78701 or via https://www.bhec.texas.gov/proposed-rule-changes-and-the-rulemaking-process/. The deadline for receipt of comments is 5:00 p.m., Central Time, on September 6, 2026, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

Statutory Authority. The rule is proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Applicable Legislation. This rule is proposed pursuant to the specific legal authority granted to the Executive Council by H.B. 1501, 86th Leg., R.S. (2019).

Additionally, the Executive Council proposes this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §502.1515 of the Tex. Occ. Code the Texas State Board of Examiners of Marriage and Family Therapists previously voted and, by a majority, approved to propose this rule to the Executive Council. The rule is specifically authorized by §502.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice,

standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also proposes this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 502 and 507 of the Texas Occupations Code and may propose this rule.

Lastly, the Executive Council also proposes this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

*§801.53. Advertising and Announcements.*

(a) Information used by a licensee in any advertisement or announcement of services may not contain information which is false, misleading, deceptive, inaccurate, incomplete, out of context, or not readily verifiable. Advertising includes any announcement of services, letterhead, business cards, commercial products, and billing statements, whether presented in print, radio, digitally, or online. Only the highest academic degree earned from an accredited college or university or only the highest academic degree earned at a foreign university that has been determined to be equivalent to a degree from an accredited institution or program by a member of the National Association of Credential Evaluation Services and relevant to the profession of therapy or a therapy-related field shall be used when advertising or announcing therapeutic services to the public or in therapy-related professional representations. A licensee may advertise or announce his or her other degrees or equivalent degrees earned at foreign institutions from accredited colleges or universities if the subject of the degree is specified.

(b) False, misleading, or deceptive advertising or advertising that is not readily subject to verification includes advertising that:

(1) makes any material misrepresentation of fact or omits a fact necessary to make the statement as a whole not materially misleading;

(2) makes any representation likely to create an unjustified expectation about the results of a health care service or procedure;

(3) compares a health care professional's services with another health care professional's services unless the comparison can be factually substantiated;

(4) contains a testimonial that includes false, deceptive, or misleading statements, or fails to include disclaimers or warnings as to the credentials of the person making the testimonial;

(5) causes confusion or misunderstanding as to the credentials, education, or licensure of a health care professional;

(6) advertises or represents that health care insurance deductibles or co-payments may be waived or are not applicable to health care services to be provided if the deductibles or co-payments are required;

(7) advertises or represents that the benefits of a health benefit plan will be accepted as full payment when deductibles or co-payments are required; or

(8) advertises or represents in the use of a professional name a title or professional identification that is expressly or commonly reserved to or used by another profession or professional.

(c) The council imposes no restrictions on advertising by a licensee with regard to the use of any medium, the licensee's personal appearance, or the use of his or her personal voice, the size or duration of an advertisement by a licensee, or the use of a trade name. A licensee who retains or hires others to advertise or promote the licensee's practice remains responsible for the statements and representations made.

(d) All advertisements or announcements of therapeutic services including telephone directory listings by a licensee must clearly state his or her license status by the use of a title such as "Licensed Marriage and Family Therapist," "LMFT," "Licensed Marriage and Family Therapist Associate," "LMFT Associate," "Licensed Marriage and Family Therapist Supervisor," "LMFT-S," or "LMFT Supervisor."

(e) A licensee may not include in advertising or announcements any information or any reference to certification in a field outside of therapy or membership in any organization that may be confusing or misleading to the public as to the services or legal recognition of the licensee.

(f) An LMFT or LMFT Associate holding a provisional license must indicate the provisional status on all advertisements, billing, and announcements of treatment by the use of the term "Provisional Licensed Marriage and Family Therapist" or "Provisional Licensed Marriage and Family Therapist Associate," as appropriate.

(g) If a licensee becomes aware of a misuse of licensee's license certificate or misrepresentation of a licensee's services or the results of licensee's services, the licensee must report the misuse or misrepresentation to the Council within 30 days of becoming aware of the misuse or misrepresentation.

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

Filed with the Office of the Secretary of State on July 23, 2026.

TRD-202603121
Darrel Spinks
Executive Director
Texas State Board of Examiners of Marriage and Family Therapists
Earliest possible date of adoption: September 6, 2026
For further information, please call: (512) 305-7706

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**22 TAC §801.54**

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Marriage and Family Therapist propose amendments to §801.54, relating to Research and Publications.

Overview and Explanation of the Proposed Rule. The proposed amendment will require licensees to comply with all federal and state laws regarding use of human subjects in research.

Fiscal Note. Darrel D. Spinks, Executive Director of the Executive Council, has determined that for the first five-year period the proposed rule is in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state

or local governments as a result of enforcing or administering the rule. Additionally, Mr. Spinks has determined that enforcing or administering the rule does not have foreseeable implications relating to the costs or revenues of state or local government.

Public Benefit. Mr. Spinks has determined for the first five-year period the proposed rule is in effect there will be a benefit to applicants, licensees, and the general public because the proposed rule will provide greater clarity, consistency, and efficiency in the Executive Council's rules. Mr. Spinks has also determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be to help the Executive Council protect the public.

Probable Economic Costs. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no additional economic costs to persons required to comply with this rule.

Small Business, Micro-Business, and Rural Community Impact Statement. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities. Mr. Spinks has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

Local Employment Impact Statement. Mr. Spinks has determined that the proposed rule will have no impact on local employment or a local economy. Thus, the Executive Council is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

Requirement for Rules Increasing Costs to Regulated Persons. The proposed rule does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rule is necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

Government Growth Impact Statement. For the first five-year period the proposed rule is in effect, the Executive Council estimates that the proposed rule will have no effect on government growth. The proposed rule does not create or eliminate a government program; it does not require the creation or elimination of employee positions; it does not require the increase or decrease in future legislative appropriations to this agency; it does not require an increase or decrease in fees paid to the agency; it does not create a new regulation; it does not expand an existing regulation; it does not increase or decrease the number of individuals subject to the rule's applicability; and it does not positively or adversely affect the state's economy.

Takings Impact Assessment. Mr. Spinks has determined that there are no private real property interests affected by the proposed rule. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

REQUEST FOR PUBLIC COMMENTS. Comments on the proposed rule may be submitted by mail to Brenda Skiff, Staff Services Officer, Texas Behavioral Health Executive Council, 1801 Congress Ave., Ste. 7.300, Austin, Texas 78701 or via https://www.bhec.texas.gov/proposed-rule-changes-and-the-rulemaking-process/. The deadline for receipt of comments is 5:00 p.m., Central Time, on September 6, 2026, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

Applicable Legislation. This rule is proposed pursuant to the specific legal authority granted to the Executive Council by H.B. 1501, 86th Leg., R.S. (2019).

Statutory Authority. The rule is proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §502.1515 of the Tex. Occ. Code the Texas State Board of Examiners of Marriage and Family Therapists previously voted and, by a majority, approved to propose this rule to the Executive Council. The rule is specifically authorized by §502.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also proposes this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 502 and 507 of the Texas Occupations Code and may propose this rule.

Lastly, the Executive Council also proposes this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

*§801.54. Research and Publications.*

(a) In research with a human subject, a licensee is responsible for the welfare of the human subject throughout a project and must take reasonable precautions so the human subject suffers no injurious emotional, physical, or social effect.

(b) A licensee must disguise data obtained from a therapeutic relationship for the purposes of education or research to ensure full protection of the identity of the human subject client.

(c) When conducting and reporting research, a licensee must give recognition to previous work on the topic as well as observe all copyright laws.

(d) A licensee must give due credit through joint authorship, acknowledgment, footnote statements, or other appropriate means to those who have contributed significantly to the licensee's research or publication.

(e) A licensee must comply with all applicable state and federal laws, including 45 CFR pt. 46, regarding the protection of human subjects in research.

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

Filed with the Office of the Secretary of State on July 23, 2026.

TRD-202603122
Darrel Spinks
Executive Director
Texas State Board of Examiners of Marriage and Family Therapists
Earliest possible date of adoption: September 6, 2026
For further information, please call: (512) 305-7706

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**22 TAC §801.58**

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Marriage and Family Therapist propose amendments to §801.58, relating to Technology-Supported Services.

Overview and Explanation of the Proposed Rule. The proposed amendment will alter the term "technology-assisted services" to "technology-supported services" and adds the term "virtual services" as the more specific term to describe that practice. The amendments also clarify that licensees must follow the laws and rules of the state authority where clients are located when providing virtual services.

Fiscal Note. Darrel D. Spinks, Executive Director of the Executive Council, has determined that for the first five-year period the proposed rule is in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rule. Additionally, Mr. Spinks has determined that enforcing or administering the rule does not have foreseeable implications relating to the costs or revenues of state or local government.

Public Benefit. Mr. Spinks has determined for the first five-year period the proposed rule is in effect there will be a benefit to applicants, licensees, and the general public because the proposed rule will provide greater clarity, consistency, and efficiency in the Executive Council's rules. Mr. Spinks has also determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be to help the Executive Council protect the public.

Probable Economic Costs. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no additional economic costs to persons required to comply with this rule.

Small Business, Micro-Business, and Rural Community Impact Statement. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities. Mr. Spinks has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

Local Employment Impact Statement. Mr. Spinks has determined that the proposed rule will have no impact on local employment or a local economy. Thus, the Executive Council is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

Requirement for Rules Increasing Costs to Regulated Persons. The proposed rule does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rule is necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

Government Growth Impact Statement. For the first five-year period the proposed rule is in effect, the Executive Council estimates that the proposed rule will have no effect on government growth. The proposed rule does not create or eliminate a government program; it does not require the creation or elimination of employee positions; it does not require the increase or decrease in future legislative appropriations to this agency; it does not require an increase or decrease in fees paid to the agency; it does not create a new regulation; it does not expand an existing regulation; it does not increase or decrease the number of individuals subject to the rule's applicability; and it does not positively or adversely affect the state's economy.

Takings Impact Assessment. Mr. Spinks has determined that there are no private real property interests affected by the proposed rule. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

REQUEST FOR PUBLIC COMMENTS. Comments on the proposed rule may be submitted by mail to Brenda Skiff, Staff Services Officer, Texas Behavioral Health Executive Council, 1801 Congress Ave., Ste. 7.300, Austin, Texas 78701 or via https://www.bhec.texas.gov/proposed-rule-changes-and-the-rulemaking-process/. The deadline for receipt of comments is 5:00 p.m., Central Time, on September 6, 2026, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

Applicable Legislation. This rule is proposed pursuant to the specific legal authority granted to the Executive Council by H.B. 1501, 86th Leg., R.S. (2019).

Statutory Authority. The rule is proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §502.1515 of the Tex. Occ. Code the Texas State Board of Examiners of Marriage and Family Therapists

previously voted and, by a majority, approved to propose this rule to the Executive Council. The rule is specifically authorized by §502.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also proposes this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 502 and 507 of the Texas Occupations Code and may propose this rule.

Lastly, the Executive Council also proposes this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

*§801.58. Technology-Supported [~~Technology-Assisted~~] Services.*

(a) Licensees who provide marriage and family therapy to clients or supervision to supervisees outside the State of Texas must comply with the laws and rules [~~of Texas and~~] of the out-of-state authority which govern the practice of marriage and family therapy.

(b) Licensees who provide treatment, consultation, and supervision using virtual practice [~~technology-assisted services~~] must meet the same standards of appropriate practice as licensees who practice in traditional (i.e., in-person) settings.

(c) In accordance with Texas Occupations Code, §502.251 (relating to License Required), a person may not practice as a marriage and family therapist unless the person holds a license under this chapter or is exempt under Texas Occupations Code, §502.004 (relating to Application of Chapter).

(d) A licensee may provide technology-supported [~~technology-assisted~~] services. To ensure the competent delivery of services by technology-supported [~~technology-assisted~~] means, a licensee must maintain an appropriate level of education, training, or experience in using relevant technology.

(e) A licensee may not render therapy using virtual practice- [~~technology-assisted services~~] without complying with the following at the onset of each session:

(1) fully verifying the location and identity of the client, to the most reasonable extent possible; and

(2) disclosing the identity of the licensee.

(f) Before providing technology-supported [~~technology-assisted~~] services, a licensee must determine whether a client is a minor. Upon determining that a client is a minor, and before providing technology-supported [~~technology-assisted~~] services, a licensee must obtain required consent from a parent or guardian and must verify the identity of the parent, guardian, or other person consenting to the minor's treatment.

(g) The licensee must determine if technology-supported [~~technology-assisted~~] service is an appropriate delivery of treatment or supervision, considering the professional, intellectual, or emotional needs of the client or supervisee.

(h) Informed consent must include, at a minimum, information that defines the technology-supported services used [~~electronic service delivery as practiced~~] by the licensee and the potential risks and ethical considerations. The licensee must obtain and maintain written or electronic evidence documenting appropriate client informed consent for the use of technology-supported [~~technology-assisted~~] services. The licensee must ensure that the informed consent complies with other informed consent requirements in this chapter and must include the following:

(1) identification of the client, the therapist, and the therapist's credentials;

(2) list of services provided by the licensee using technology-supported [~~technology-assisted~~] services;

(3) client agreement that the therapist determines on an on-going basis whether the condition being assessed or treated is appropriate for technology-supported [~~technology-assisted~~] services;

(4) details on security measures taken with the use of technology-supported [~~technology-assisted~~] services, as well as potential risks to privacy notwithstanding such measures;

(5) information regarding secure protocols and back-up plans in case of technical failure;

(6) the licensee's credentials or training to engage in technology-supported [~~technology-assisted~~] services, and contact information;

(7) risks and benefits of engaging in the use of technology;

(8) emergency procedures to follow when the therapist is not available;

(9) information collected and any passive tracking mechanisms used;

(10) third-party websites or services used by the licensee to facilitate technology-supported [~~technology-assisted~~] services; and

(11) an explanation of how records are maintained electronically, including encryption type and record security, and the archival storage period for transaction records.

(i) Therapists who use technology-supported [~~technology-assisted~~] services must meet or exceed applicable federal and state legal requirements of health information privacy, including compliance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191; The Health Information Technology for Economic and Clinical Health (HITECH) Act, 42 U.S.C. Chapter 156, Subchapter III; Texas Health and Safety Code, Chapter 181 (relating to Medical Records Privacy); and state privacy, confidentiality, and security rules.

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

Filed with the Office of the Secretary of State on July 23, 2026.

TRD-202603124

Darrel Spinks
Executive Director
Texas State Board of Examiners of Marriage and Family Therapists
Earliest possible date of adoption: September 6, 2026
For further information, please call: (512) 305-7706

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## SUBCHAPTER C. APPLICATIONS AND LICENSING

### 22 TAC §801.142

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Marriage and Family Therapist propose amendments to §801.142, relating to Supervised Clinical Experience Requirements and Conditions.

Overview and Explanation of the Proposed Rule. The proposed amendment will substitute the term "virtual services" for "technology-assisted services" in conjunction with changes made to other rules.

Fiscal Note. Darrel D. Spinks, Executive Director of the Executive Council, has determined that for the first five-year period the proposed rule is in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rule. Additionally, Mr. Spinks has determined that enforcing or administering the rule does not have foreseeable implications relating to the costs or revenues of state or local government.

Public Benefit. Mr. Spinks has determined for the first five-year period the proposed rule is in effect there will be a benefit to applicants, licensees, and the general public because the proposed rule will provide greater clarity, consistency, and efficiency in the Executive Council's rules. Mr. Spinks has also determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be to help the Executive Council protect the public.

Probable Economic Costs. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no additional economic costs to persons required to comply with this rule.

Small Business, Micro-Business, and Rural Community Impact Statement. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities. Mr. Spinks has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

Local Employment Impact Statement. Mr. Spinks has determined that the proposed rule will have no impact on local employment or a local economy. Thus, the Executive Council is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

Requirement for Rules Increasing Costs to Regulated Persons. The proposed rule does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rule is necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

Government Growth Impact Statement. For the first five-year period the proposed rule is in effect, the Executive Council estimates that the proposed rule will have no effect on government growth. The proposed rule does not create or eliminate a government program; it does not require the creation or elimination of employee positions; it does not require the increase or decrease in future legislative appropriations to this agency; it does not require an increase or decrease in fees paid to the agency; it does not create a new regulation; it does not expand an existing regulation; it does not increase or decrease the number of individuals subject to the rule's applicability; and it does not positively or adversely affect the state's economy.

Takings Impact Assessment. Mr. Spinks has determined that there are no private real property interests affected by the proposed rule. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

REQUEST FOR PUBLIC COMMENTS. Comments on the proposed rule may be submitted by mail to Brenda Skiff, Staff Services Officer, Texas Behavioral Health Executive Council, 1801 Congress Ave., Ste. 7.300, Austin, Texas 78701 or via https://www.bhec.texas.gov/proposed-rule-changes-and-the-rulemaking-process/. The deadline for receipt of comments is 5:00 p.m., Central Time, on September 6, 2026, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

Applicable Legislation. This rule is proposed pursuant to the specific legal authority granted to the Executive Council by H.B. 1501, 86th Leg., R.S. (2019).

Statutory Authority. The rule is proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §502.1515 of the Tex. Occ. Code the Texas State Board of Examiners of Marriage and Family Therapists previously voted and, by a majority, approved to propose this rule to the Executive Council. The rule is specifically authorized by §502.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also proposes this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education re-

quirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 502 and 507 of the Texas Occupations Code and may propose this rule.

Lastly, the Executive Council also proposes this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

*§801.142. Supervised Clinical Experience Requirements and Conditions.*

An applicant for LMFT must complete supervised clinical experience acceptable to the council.

(1) The LMFT Associate must have completed a minimum of two years of work experience in marriage and family therapy, which includes a minimum of 3,000 hours of supervised clinical practice. The required 3,000 hours must include at least 1,500 hours providing direct clinical services, of which:

(A) no more than 750 hours may be provided via virtual practice [~~technology-assisted services~~] (as approved by the supervisor); and

(B) at least 500 hours must be providing direct clinical services to couples or families.

(2) The remaining required hours, not covered by paragraph (1) of this section [~~above~~], may come from related experiences, including workshops, public relations, writing case notes, consulting with referral sources, etc.

(3) An LMFT Associate must obtain a minimum of 200 hours of supervision by an LMFT-S during the required 3,000 hours, and at least 100 of these hours must be individual supervision.

(A) An LMFT Associate, when providing services, must receive a minimum of one hour of supervision every week, except for good cause shown.

(B) Supervision may be provided in person or by live video or, if the supervisor determines that in-person or live video supervision is not accessible, by telephone.

(C) An LMFT Associate may apply up to 100 graduate internship supervision hours toward the required 200 hours of supervision required for licensure as an LMFT.

(4) For an LMFT applicant who begins the graduate degree program used for their license application before September 1, 2025, staff may count graduate internship hours exceeding the requirements set in §801.114(b)(8) of this title toward the minimum requirement of at least 3,000 hours of supervised clinical practice under the following conditions.

(A) No more than 500 excess graduate internship hours, of which no more than 250 hours may be direct clinical services to couples or families, completed under a Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE) accredited graduate program may be counted toward the minimum requirement of at least 3,000 hours of supervised clinical practice.

(B) No more than 400 excess graduate internship hours, of which no more than 200 hours may be direct clinical services to couples or families, completed under a non-COAMFTE-accredited graduate program may be counted toward the minimum requirement of at least 3,000 hours of supervised clinical practice.

(5) An LMFT Associate may practice marriage and family therapy in any setting under supervision, such as a private practice, public or private agencies, hospitals, etc.

(6) During the post-graduate, supervised clinical experience, both the supervisor and the LMFT Associate may have disciplinary actions taken against their licenses for violations of the Act, the Council Act, or council rules. If an LMFT Associate is informed of a pending complaint against them, they must notify each of their supervisors of the complaint.

(7) Within 30 days of initiating supervision with any LMFT supervisor, an LMFT Associate must submit to the council a Supervisory Agreement Form.

(8) An LMFT Associate may have no more than two LMFT supervisors at a time, unless given prior approval by the council or its designee.

(9) Applicants with a master's degree that qualifies under §801.112 and §801.113 of this title, may count any supervision and experience (e.g., practicum, internship, externship) completed after conferral of the master's degree and as part of a doctoral program, toward the supervision and experience requirements set out in §801.142. A doctoral program must lead to a degree that qualifies under §801.112 and §801.113 of this title, before the Council will award credit for supervision and experience under this provision.

(10) If an LMFT Associate receives a remediation plan, as described in §801.143(f)(4) of this title, the Associate must provide a copy of the remediation plan to any other current or future supervisors, as well as any relevant documentation regarding successful completion of the plan.

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

Filed with the Office of the Secretary of State on July 23, 2026.

TRD-202603126
Darrel Spinks
Executive Director
Texas State Board of Examiners of Marriage and Family Therapists
Earliest possible date of adoption: September 6, 2026
For further information, please call: (512) 305-7706

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# PART 41. TEXAS BEHAVIORAL HEALTH EXECUTIVE COUNCIL

## CHAPTER 882. APPLICATIONS AND LICENSING

## SUBCHAPTER A. LICENSE APPLICATIONS

### 22 TAC §882.6

The Texas Behavioral Health Executive Council proposes amendments to §882.6, relating to Limitations on Number of Examination Attempts.

OVERVIEW AND EXPLANATION OF THE PROPOSED RULE. The proposed amendment will remove the requirement that license applicants who fail a licensure exam three times must

submit a study plan to receive approval to retest, while keeping a limit on the number of exam attempts in a 12-month period.

FISCAL NOTE. Darrel D. Spinks, Executive Director of the Executive Council, has determined that for the first five-year period the proposed rule is in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rule. Additionally, Mr. Spinks has determined that enforcing or administering the rule does not have foreseeable implications relating to the costs or revenues of state or local government.

PUBLIC BENEFIT. Mr. Spinks has determined for the first five-year period the proposed rule is in effect there will be a benefit to applicants, licensees, and the general public because the proposed rule will provide greater clarity, consistency, and efficiency in the Executive Council's rules. Mr. Spinks has also determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be to help the Executive Council protect the public.

PROBABLE ECONOMIC COSTS. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no additional economic costs to persons required to comply with this rule.

SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT STATEMENT. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

REGULATORY FLEXIBILITY ANALYSIS FOR SMALL AND MICRO-BUSINESSES AND RURAL COMMUNITIES. Mr. Spinks has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

LOCAL EMPLOYMENT IMPACT STATEMENT. Mr. Spinks has determined that the proposed rule will have no impact on local employment or a local economy. Thus, the Executive Council is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

REQUIREMENT FOR RULES INCREASING COSTS TO REGULATED PERSONS. The proposed rule does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rule is necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

GOVERNMENT GROWTH IMPACT STATEMENT. For the first five-year period the proposed rule is in effect, the Executive Council estimates that the proposed rule will have no effect on government growth. The proposed rule does not create or eliminate a government program; it does not require the creation or elimination of employee positions; it does not require the increase or decrease in future legislative appropriations to this agency; it does not require an increase or decrease in fees paid to the agency; it does not create a new regulation; it does not expand an existing regulation; it does not increase or decrease the number of individuals subject to the rule's applicability; and it does not positively or adversely affect the state's economy.

TAKINGS IMPACT ASSESSMENT. Mr. Spinks has determined that there are no private real property interests affected by the proposed rule. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

REQUEST FOR PUBLIC COMMENTS. Comments on the proposed rule may be submitted by mail to Brenda Skiff, Staff Services Officer, Texas Behavioral Health Executive Council, 1801 Congress Ave., Ste. 7.300, Austin, Texas 78701 or via https://www.bhec.texas.gov/proposed-rule-changes-and-the-rulemaking-process/index.html. The deadline for receipt of comments is 5:00 p.m., Central Time, on September 6, 2026, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

APPLICABLE LEGISLATION. This rule is proposed pursuant to the specific legal authority granted to the Executive Council by H.B. 1501, 86th Leg., R.S. (2019).

STATUTORY AUTHORITY. The rule is proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

The Executive Council also proposes this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

*§882.6. Limitations on Number of Examination Attempts.*

[~~(a)~~] An applicant taking [~~may take~~] an examination [~~administered or~~] required by the Council is limited to the number of attempts in a 12-month period authorized by the entity administering the exam to preserve exam integrity [~~no more than three times~~]. Failure to pass an examination prior to the expiration date of an application for license with the Council [~~subject to this rule within three attempts~~], will result in expiration [~~an automatic denial~~] of the [~~an~~] application and may require reapplying for authorization to sit for the examination.

[~~(b) Notwithstanding subsection (a) of this section, an applicant whose application is denied under this rule may reapply for licensure, but will not be allowed or approved to sit for the exam again until the applicant has submitted a detailed study plan designed to address the known or suspected areas of deficiency. The study plan must be approved by the relevant member board before authorization will be given to retake the examination.~~]

[~~(c) Examinations which do not require pre-authorization by the Council to take, are not subject to this rule.~~]

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

Filed with the Office of the Secretary of State on July 23, 2026.

TRD-202603104
Darrel Spinks
Executive Director
Texas Behavioral Health Executive Council
Earliest possible date of adoption: September 6, 2026
For further information, please call: (512) 305-7706

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## SUBCHAPTER C. DUTIES AND RESPONSIBILITIES

### 22 TAC §882.36

The Texas Behavioral Health Executive Council proposes amendments to §882.36, relating to Compliance with State and Federal Law.

Overview and Explanation of the Proposed Rule. The proposed amendment will align the Council's rule with Senate Bill 1188, passed by the 89th Legislature. The proposed amendments would also incorporate additional statutory provisions relevant to the Council's professions.

Fiscal Note. Darrel D. Spinks, Executive Director of the Executive Council, has determined that for the first five-year period the proposed rule is in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rule. Additionally, Mr. Spinks has determined that enforcing or administering the rule does not have foreseeable implications relating to the costs or revenues of state or local government.

Public Benefit. Mr. Spinks has determined for the first five-year period the proposed rule is in effect there will be a benefit to applicants, licensees, and the general public because the proposed rule will provide greater clarity, consistency, and efficiency in the Executive Council's rules. Mr. Spinks has also determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be to help the Executive Council protect the public.

Probable Economic Costs. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no additional economic costs to persons required to comply with this rule.

Small Business, Micro-Business, and Rural Community Impact Statement. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities. Mr. Spinks has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

Local Employment Impact Statement. Mr. Spinks has determined that the proposed rule will have no impact on local employment or a local economy. Thus, the Executive Council is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

Requirement for Rules Increasing Costs to Regulated Persons. The proposed rule does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rule is necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

Government Growth Impact Statement. For the first five-year period the proposed rule is in effect, the Executive Council estimates that the proposed rule will have no effect on government growth. The proposed rule does not create or eliminate a government program; it does not require the creation or elimination of employee positions; it does not require the increase or decrease in future legislative appropriations to this agency; it does not require an increase or decrease in fees paid to the agency; it does not create a new regulation; it does not expand an existing regulation; it does not increase or decrease the number of individuals subject to the rule's applicability; and it does not positively or adversely affect the state's economy.

Takings Impact Assessment. Mr. Spinks has determined that there are no private real property interests affected by the proposed rule. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

REQUEST FOR PUBLIC COMMENTS. Comments on the proposed rule may be submitted by mail to Brenda Skiff, Staff Services Officer, Texas Behavioral Health Executive Council, 1801 Congress Ave., Ste. 7.300, Austin, Texas 78701 or via https://www.bhec.texas.gov/proposed-rule-changes-and-the-rulemaking-process/index.html. The deadline for receipt of comments is 5:00 p.m., Central Time, on September 6, 2026, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

Applicable Legislation. This rule is proposed pursuant to the specific legal authority granted to the Executive Council by H.B. 1501, 86th Leg., R.S. (2019).

Statutory Authority. The rule is proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

The Executive Council also proposes this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

*§882.36. Compliance with State and Federal Law.*

Licensees comply with all applicable state and federal laws affecting the practice of marriage and family therapy, professional counseling, psychology, or social work including, but not limited to:

(1) Health and Safety Code:[, ~~Chapter 611, Mental Health Records;~~]

(A) Chapter 181, Medical Records Privacy;

(B) Chapter 183, Electronic Health Records; and

(C) Chapter 611, Mental Health Records;

(2) Family Code:

(A) Chapter 32, Consent to Medical, Dental, Psychological and Surgical Treatment,

(B) Chapter 34, Authorization Agreement for Nonparent Adult Caregiver;

(C) Chapter 35, Temporary Authorization for Care of Minor Child;

(D) Chapter 35A, Temporary Authorization for Inpatient Mental Health Services for Minor Child;

(E) Chapter 107, Special Appointments, Child Custody Evaluations and Adoption Evaluations;

(F) [~~(B)~~] Chapter 153, Rights to Parents and Other Conservators to Consent to Treatment and Access to Child's Records, and

(G) [~~(C)~~] Chapter 261, Duty to Report Child Abuse and Neglect;

(3) Human Resource Code, Chapter 48, Duty to Report Elder Abuse and Neglect;

(4) Civil Practice and Remedy Code, Chapter 81, Duty to Report Sexual Exploitation of a Patient by a Mental Health Services Provider;

(5) Insurance Code as it relates to submission of billing and third-party payments for mental health services provided by a licensee;

(6) Code of Criminal Procedure:[~~, Chapter 46B, Incompetency to Stand Trial, and Chapter 46C, Insanity Defense;~~]

(A) Chapter 46B, Incompetency to Stand Trial; and

(B) Chapter 46C, Insanity Defense;

(7) Occupations Code:[~~, Chapter 102, Solicitation of Patients; Chapter 104, Healing Art Practitioners; Chapter 105, Unprofessional Conduct; and Chapter 113, Mental Health Telemedicine and Telehealth Services;~~]

(A) Chapter 102, Solicitation of Patients;

(B) Chapter 104, Healing Art Practitioners;

(C) Chapter 105, Unprofessional Conduct;

(D) Chapter 113, Mental Health Telemedicine and Telehealth Services; and

(E) Chapter 116, Training Course on Human Trafficking Prevention;

(8) Education Code, Chapter 51, Duty to Report Sexual Harassment and Assault, Dating Violence, and Stalking; [~~and~~]

(9) 18 United States Code §1347 Health Care Fraud[~~.~~]; and

(10) Penal Code:

(A) Chapter 35, Insurance Fraud; and

(B) Chapter 35A, Medicaid Fraud.

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

Filed with the Office of the Secretary of State on July 23, 2026.

TRD-202603106
Darrel Spinks
Executive Director
Texas Behavioral Health Executive Council
Earliest possible date of adoption: September 6, 2026
For further information, please call: (512) 305-7706

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# CHAPTER 884. COMPLAINTS AND ENFORCEMENT

## SUBCHAPTER D. DUTIES AND RESPONSIBILITIES

### 22 TAC §884.31

The Texas Behavioral Health Executive Council proposes amendments to §884.31, relating to Notice to the Public of Complaint Process and Access to Records.

OVERVIEW AND EXPLANATION OF THE PROPOSED RULE. The proposed amendment will align the Council's rule with House Bill 4224, passed by the 89th Legislature.

FISCAL NOTE. Darrel D. Spinks, Executive Director of the Executive Council, has determined that for the first five-year period the proposed rule is in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rule. Additionally, Mr. Spinks has determined that enforcing or administering the rule does not have foreseeable implications relating to the costs or revenues of state or local government.

PUBLIC BENEFIT. Mr. Spinks has determined for the first five-year period the proposed rule is in effect there will be a benefit to applicants, licensees, and the general public because the proposed rule will provide greater clarity, consistency, and efficiency in the Executive Council's rules. Mr. Spinks has also determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be to help the Executive Council protect the public.

PROBABLE ECONOMIC COSTS. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no additional economic costs to persons required to comply with this rule.

SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT STATEMENT. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

REGULATORY FLEXIBILITY ANALYSIS FOR SMALL AND MICRO-BUSINESSES AND RURAL COMMUNITIES. Mr. Spinks has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

LOCAL EMPLOYMENT IMPACT STATEMENT. Mr. Spinks has determined that the proposed rule will have no impact on local employment or a local economy. Thus, the Executive Council

is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

REQUIREMENT FOR RULES INCREASING COSTS TO REGULATED PERSONS. The proposed rule does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rule is necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

GOVERNMENT GROWTH IMPACT STATEMENT. For the first five-year period the proposed rule is in effect, the Executive Council estimates that the proposed rule will have no effect on government growth. The proposed rule does not create or eliminate a government program; it does not require the creation or elimination of employee positions; it does not require the increase or decrease in future legislative appropriations to this agency; it does not require an increase or decrease in fees paid to the agency; it does not create a new regulation; it does not expand an existing regulation; it does not increase or decrease the number of individuals subject to the rule's applicability; and it does not positively or adversely affect the state's economy.

TAKINGS IMPACT ASSESSMENT. Mr. Spinks has determined that there are no private real property interests affected by the proposed rule. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

REQUEST FOR PUBLIC COMMENTS. Comments on the proposed rule may be submitted by mail to Brenda Skiff, Staff Services Officer, Texas Behavioral Health Executive Council, 1801 Congress Ave., Ste. 7.300, Austin, Texas 78701 or via https://www.bhec.texas.gov/proposed-rule-changes-and-the-rulemaking-process/index.html. The deadline for receipt of comments is 5:00 p.m., Central Time, on September 6, 2026, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

APPLICABLE LEGISLATION. This rule is proposed pursuant to the specific legal authority granted to the Executive Council by H.B. 1501, 86th Leg., R.S. (2019).

STATUTORY AUTHORITY. The rule is proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

The Executive Council also proposes this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

*§884.31. Notice to the Public of Complaint Process and Access to Records.*

(a) Licensees shall provide notice to consumers and service recipients [~~the public~~] (e.g., patients, clients) how to: [~~that complaints can be filed with the Council by any of the following methods:~~]

(1) contact the Council and file a complaint; [~~on a registration form, application, written contract for services, or other intake paperwork required by licensees prior to delivering services;~~]

(2) request a copy of their mental health records; and [~~on a sign prominently displayed in the licensee's place of business or location where services are delivered. The sign must be printed on paper of no less than 8-1/2 inches by 11 inches in size;~~]

(3) file a consumer complaint with the Office of the Attorney General's Consumer Protection Division, pursuant to Section 181.105 of the Health and Safety Code. [~~in a prominent and easily accessible location on the licensee's website; or~~ ]

[~~(4) in a bill for services.~~]

(b) Notice must be posted in a prominent and easily accessible location on the licensee's website. Notice must also be provided on a sign prominently displayed in the licensee's place of business or location where services are delivered. If a licensee has neither a physical location nor website then notice must be provided by one of the following methods:

(1) in the intake paperwork required by licensees prior to delivering services; or

(2) in a bill for services.

(c) [~~(b)~~] The notice required by this rule must include the Council's name, web address, mailing address, and telephone number, as well as the [~~following~~] statement in the attached graphic or a statement similar in nature and content. [~~:~~]
Figure: 22 TAC §884.31(c)

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

Filed with the Office of the Secretary of State on July 23, 2026.

TRD-202603108
Darrel Spinks
Executive Director
Texas Behavioral Health Executive Council
Earliest possible date of adoption: September 6, 2026
For further information, please call: (512) 305-7706

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# TITLE 26. HEALTH AND HUMAN SERVICES

## PART 1. HEALTH AND HUMAN SERVICES COMMISSION

## CHAPTER 550. LICENSING STANDARDS FOR PRESCRIBED PEDIATRIC EXTENDED CARE CENTERS

## SUBCHAPTER F. INSPECTIONS AND VISITS

**26 TAC §550.1301**

The executive commissioner of the Texas Health and Human Services Commission (HHSC) proposes an amendment to §550.1301, concerning Inspections and Visits.

BACKGROUND AND PURPOSE

The purpose of the proposal is to update the rule to limit survey frequency from annually to every three years in alignment with current licensure renewal and inspection timeframe requirements in Texas Health and Safety Code §248A.053 and §248A.102. The changes reduce administrative and operational burdens for providers associated with annual inspections.

This proposal also deletes or updates obsolete references and clarifies existing language to improve overall readability.

SECTION-BY-SECTION SUMMARY

The proposed amendment to §550.1301(a) and (b) clarifies language and improves readability. The edits to subsection (c) clarify that, except for visits outlined in subsection (e), HHSC does not announce inspections as well as investigations and visits described in subsection (a). The update to subsection (d) removes language referencing at least one licensing inspection annually because an inspection will now be conducted at least once every three years. The update to subsection (e) reorganizes the subsection for clarity and improved readability and includes restructuring paragraph (2) to new subsection (f).

FISCAL NOTE

Victoria Grady, Deputy Chief, Finance, has determined that for each year of the first five years that the rule will be in effect, there will be an estimated reduction in cost to state government as a result of enforcing and administering the rule as proposed. HHSC is unable to determine the reduction in costs because it is unknown how many providers will apply for a renewal license every three years. Enforcing or administering the rule does not have foreseeable implications relating to costs or revenues of local government.

GOVERNMENT GROWTH IMPACT STATEMENT

HHSC has determined that during the first five years that the rule will be in effect:

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

(2) implementation of the proposed rule will not affect the number of HHSC employee positions;

(3) implementation of the proposed rule will result in no assumed change in future legislative appropriations;

(4) the proposed rule will not affect fees paid to HHSC;

(5) the proposed rule will not create new regulations;

(6) the proposed rule will limit existing regulations;

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

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

SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT ANALYSIS

Victoria Grady has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities because there is no requirement to alter current business practices.

LOCAL EMPLOYMENT IMPACT

The proposed rule will not affect a local economy.

COSTS TO REGULATED PERSONS

Texas Government Code §2001.0045 does not apply to this rule because the rule does not impose a cost on regulated persons.

PUBLIC BENEFIT AND COSTS

Michelle Dionne-Vahalik, Deputy Executive Commissioner for Long-Term Care Regulation, has determined that for each year of the first five years the rule is in effect, the public benefit will be reducing administrative and operational burden on providers, allowing providers to focus resources on daily operations and care while HHSC maintains appropriate oversight.

Victoria Grady has also determined that for the first five years the rule is in effect, there are no anticipated economic costs to persons required to comply with the proposed rule because HHSC only extends survey timeframes, and there are no new fees or costs imposed on those required to comply.

TAKINGS IMPACT ASSESSMENT

HHSC has determined that the proposal does not restrict or limit an owner's right to the owner's property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking under Texas Government Code §2007.043.

PUBLIC COMMENT

Written comments on the proposal, including information related to the cost, benefit, or effect of the proposed rule, as well as any applicable data, research, or analysis, may be submitted to Rules Coordination Office, P.O. Box 13247, Mail Code 4102, Austin, Texas 78711-3247, or street address 4601 West Guadalupe Street, Austin, Texas 78751; or emailed to *HHSRulesCoordinationOffice@hhs.texas.gov*.

To be considered, comments must be submitted no later than 31 days after the date of this issue of the *Texas Register*. Comments must be (1) postmarked or shipped before the last day of the comment period; (2) hand-delivered before 5:00 p.m. on the last working day of the comment period; or (3) emailed before midnight on the last day of the comment period. If the last day to submit comments falls on a holiday, comments must be postmarked, shipped, or emailed before midnight on the following business day to be accepted. When emailing comments, please indicate "Comments on Proposed Rule 26R045" in the subject line.

STATUTORY AUTHORITY

The amendment is authorized by 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 agencies; and Texas Health and Safety Code §248A.101, which authorizes the executive commissioner of HHSC to adopt rules that are necessary to implement Chapter 248A, to protect the health and safety of the public, and to ensure the health, safety and comfort of the minors served.

The amendment implements Texas Government Code §524.0151 and Texas Health and Safety Code Chapter 248A.

*§550.1301. Inspections and Visits.*

(a) HHSC conducts [~~performs~~] inspections, follow-up visits, and compliance investigations. HHSC also investigates allegations [~~,~~ ~~investigations~~] of abuse, neglect, and exploitation. Any [~~, and~~] other

contact visit may occur [~~visits~~] at a center as deemed appropriate or as required to determine a center's compliance with this chapter.

(b) An inspector or an inspection team [~~inspection~~] may conduct [~~be conducted by~~] an inspection or visit. The number of inspectors and other team members conducting an inspection or visit may depend [~~inspector or by a team depending~~] on the purpose of the inspection, the size of a center, and other factors.

(c) HHSC does not announce inspections, investigations, or visits described in subsection (a) of this section, except for visits outlined in subsection (e) of this section.

(d) HHSC conducts [~~at least one~~] unannounced licensing inspections at least once every three years from [~~inspection annually after issuance of~~] a license issue date.

(e) HHSC may visit a center for purposes other than the reasons described in subsection (a) of this section, including to assess or consult with staff on: [~~.~~]

(1) [~~HHSC may visit a center to consult with a center's staff to determine~~] how a center may update or expand the center's physical space; [~~may be expanded or upgraded or determine the progress of a center's construction or repairs, equipment installation or repairs, systems installation or repairs, or when conditions or emergencies arise, including fire, windstorm, or malfunctioning or nonfunctioning of electrical or mechanical systems.~~]

(2) construction progress;

(3) repair progress;

(4) equipment installation or repairs;

(5) systems installation or repairs;

(6) emergencies, to include natural disasters such as fires, floods, windstorms; or

(7) emergencies due to malfunctioning or nonfunctioning electrical or mechanical systems.

(f) [~~(2)~~] HHSC may announce visits that are not for a purpose described in subsection (a) of this section.

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

Filed with the Office of the Secretary of State on July 27, 2026.

TRD-202603144
Karen Ray
Chief Counsel
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# TITLE 31. NATURAL RESOURCES AND CONSERVATION

## PART 10. TEXAS WATER DEVELOPMENT BOARD

### CHAPTER 367. AGRICULTURAL WATER CONSERVATION PROGRAM

**31 TAC §§367.2 - 367.7, 367.12 - 367.14, 367.16**

The Texas Water Development Board (TWDB) proposes an amendment to 31 Texas Administrative Code (TAC) §§367.2 - 367.7, 367.12 - 367.14, and 367.16.

BACKGROUND AND SUMMARY OF THE FACTUAL BASIS FOR THE PROPOSED AMENDMENT.

The TWDB proposes to add a definition of "agricultural" to the text of Chapter 367. Additionally, the TWDB proposes to add the phrase throughout the chapter to clarify that the use of the Agricultural Water Conservation Fund is only for conservation agricultural projects or programs. This rulemaking defines agricultural and clarifies the type of conservation projects or programs eligible for an agricultural water conservation grant to stakeholders.

SECTION BY SECTION DISCUSSION OF PROPOSED AMENDMENTS.

Section 367.2. Definition.

The TWDB proposes to add a definition for the term "agricultural" to read as follows:

Related to the production of food, fiber, or other agricultural projects.

(A) The term includes:

(i) the cultivation of soil to produce crops;

(ii) horticulture, floriculture, or viticulture;

(iii) aquaculture as defined in Texas Agriculture Code, §134.001;

(iv) forestry; and

(v) the raising or keeping of livestock or poultry.

(B) The term does not include activities that are primarily industrial, municipal, or commercial in nature.

The TWDB also proposes to correct a typo from "an" to "a" in the definition of "construction." The TWDB proposes to add the phrase "agricultural" to modify "conservation program or project" in the definition of "eligible cost." Because of the addition of a new definition, and to maintain the definitions in alphabetical order, the TWDB proposes to renumber all definitions in this section.

Section 367.3. Eligible Uses of the Fund.

The TWDB proposes to add the term "agricultural" to modify the terms "conservation program" and "conservation project" throughout this section. This addition will clarify that the

Agricultural Water Conservation Fund may only be used to provide funding for agricultural conservation programs and agricultural conservation projects.

Section 367.4. Determination of Availability.

The TWDB proposes to add the term "agricultural" to modify "conservation program or project." This is a conforming change to be consistent with changes throughout the chapter.

Section 367.5. Application Requirements.

The TWDB proposes to add the term "agricultural" to modify "conservation program or project." This is a conforming change to be consistent with changes throughout the chapter.

Section 367.6. Application with Engineering Report.

The TWDB proposes to add the term "agricultural" to modify "conservation program or project." This is a conforming change to be consistent with changes throughout the chapter.

Section 367.7. Application with Environmental Assessment.

The TWDB proposes to add the term "agricultural" to modify "conservation program or project." This is a conforming change to be consistent with changes throughout the chapter.

Section 367.12. Construction Requirements.

The TWDB proposes to add the term "agricultural" to modify "conservation program or project." This is a conforming change to be consistent with changes throughout the chapter. The TWDB also proposes to fix a typo from "insure" to "ensure" for clarity purposes.

Section 367.13. Amendments to a Program or Project.

The TWDB proposes to add the term "agricultural" to modify "conservation program or project." This is a conforming change to be consistent with changes throughout the chapter.

Section 367.14. Reporting Requirements for Loans.

The TWDB proposes to add the term "agricultural" to modify "conservation program or project." This is a conforming change to be consistent with changes throughout the chapter.

Section 367.16. Conditions prior to Execution.

The TWDB proposes to add the term "agricultural" to modify "conservation program or project." This is a conforming change to be consistent with changes throughout the chapter.

FISCAL NOTE: COSTS TO STATE AND LOCAL GOVERNMENTS (Texas Government Code §2001.024(a)(4))

Ms. Georgia Sanchez, Chief Financial Officer, has determined that there will be no fiscal implications for state or local governments as a result of the proposed rulemaking. For the first five years these rules are in effect, there is no expected additional cost to state or local governments resulting from their administration.

These rules are not expected to result in reductions in costs to either state or local governments. There is no change in costs because these rules simply provide clarification for a requirement that already applied to this fund. These rules are not expected to have any impact on state or local revenues. The rules do not require any increase in expenditures for state or local governments as a result of administering these rules. Additionally, there are no foreseeable implications relating to state or local governments' costs or revenue resulting from these rules.

Because these rules will not impose a cost on regulated persons, the requirement included in Texas Government Code, §2001.0045 to repeal a rule does not apply. Furthermore, the requirement in §2001.0045 does not apply because these rules are necessary to protect water resources of this state as authorized by the Texas Water Code.

The TWDB invites public comment regarding this fiscal note. Written comments on the fiscal note may be submitted to the contact person at the address listed under the Submission of Comments section of this preamble.

PUBLIC BENEFITS AND COSTS (Texas Government Code §2001.024(a)(5))

Ms. Georgia Sanchez also has determined that for each year of the first five years the proposed rulemaking is in effect, the public will benefit from the rulemaking as it clarifies requirements for TWDB grantees and borrowers for the Agricultural Water Conservation Fund. Ms. Georgia Sanchez also has determined that for each year of the first five years the proposed rulemaking is in effect, the rules will not impose an economic cost on persons required to comply with the rule as participation in TWDB financial assistance programs is voluntary.

ECONOMIC AND LOCAL EMPLOYMENT IMPACT STATEMENT (Texas Government Code §§2001.022, 2006.002); REGULATORY FLEXIBILITY ANALYSIS (Texas Government Code §2006.002)

The TWDB has determined that a local employment impact statement is not required because the proposed rule does not adversely affect a local economy in a material way for the first five years that the proposed rule is in effect because it will impose no new requirements on local economies. The TWDB also has determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities as a result of enforcing this rulemaking. The TWDB also has determined that there is no anticipated economic cost to persons who are required to comply with the rulemaking as proposed. Therefore, no regulatory flexibility analysis is necessary.

DRAFT REGULATORY IMPACT ANALYSIS DETERMINATION (Texas Government Code §2001.0225)

The TWDB reviewed the proposed rulemaking in light of the regulatory analysis requirements of Texas Government Code §2001.0225 and determined that the rulemaking is not subject to Texas Government Code §2001.0225, because it does not meet the definition of a "major environmental rule" as defined in the Administrative Procedure Act. A "major environmental rule" is defined as a rule with the specific intent to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy or a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. The intent of the rulemaking is to clarify requirements for TWDB grantees and borrowers for the Agricultural Water Conservation Fund.

Even if the proposed rule were a major environmental rule, Texas Government Code §2001.0225 still would not apply to this rulemaking because Texas Government Code §2001.0225 only applies to a major environmental rule, the result of which is to: (1) exceed a standard set by federal law, unless the rule is specifically required by state law; (2) exceed an express requirement of state law, unless the rule is specifically required by federal law; (3) exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or (4) adopt a rule solely under the general powers of the agency instead of under a specific state law. This rulemaking does not meet any of these four applicability criteria because it: (1) does not exceed any federal law; (2) does not exceed an express requirement of state law; (3) does not exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; and (4) is not proposed solely under the general powers of the agency, but rather Texas Water Code §17.912. Therefore, this proposed rule does not fall under any of the applicability criteria in Texas Government Code §2001.0225.

The TWDB invites public comment regarding this draft regulatory impact analysis determination. Written comments on the draft regulatory impact analysis determination may be submitted to the contact person at the address listed under the Submission of Comments section of this preamble.

TAKINGS IMPACT ASSESSMENT (Texas Government Code §2007.043)

The TWDB evaluated this proposed rule and performed an analysis of whether it constitutes a taking under Texas Government Code, Chapter 2007. The specific purpose of this rule is to clarify requirements for TWDB grantees and borrowers for the Agricultural Water Conservation Fund. The proposed rule would substantially advance this stated purpose by aligning definitions with agency and industry practice and providing greater detail on eligibility.

The TWDB's analysis indicates that Texas Government Code, Chapter 2007, does not apply to this proposed rule because this is an action that is reasonably taken to fulfill an obligation mandated by state law, which is exempt under Texas Government Code §2007.003(b)(4). The TWDB is the agency that implements the Agricultural Water Conservation Program.

Nevertheless, the TWDB further evaluated this proposed rule and performed an assessment of whether it constitutes a taking under Texas Government Code Chapter 2007. Promulgation and enforcement of this proposed rule would be neither a statutory nor a constitutional taking of private real property. Specifically, the subject proposed regulation does not affect a landowner's rights in private real property because this rulemaking does not burden, restrict, or limit the owner's right to property and reduce its value by 25% or more beyond that which would otherwise exist in the absence of the regulation. In other words, this rule clarifies requirements for TWDB grantees and borrowers for the Agricultural Water Conservation Fund. Therefore, the proposed rule does not constitute a taking under Texas Government Code, Chapter 2007.

GOVERNMENT GROWTH IMPACT STATEMENT (Texas Government Code §2001.0221)

The TWDB reviewed the proposed rulemaking in light of the government growth impact statement requirements of Texas Government Code §2001.0221 and has determined, for the first five years the proposed rule would be in effect, the proposed rule will not: (1) create or eliminate a government program; (2) require the creation of new employee positions or the elimination of existing employee positions; (3) require an increase or decrease in future legislative appropriations to the agency; (4) require an increase or decrease in fees paid to the agency; (5) create a new regulation; (6) expand, limit, or repeal an existing regulation; (7) increase or decrease the number of individuals subject to the rule's applicability; or (8) positively or adversely affect this state's economy.

SUBMISSION OF COMMENTS (Texas Government Code §2001.024(a)(7))

Written comments on the proposed rulemaking may be submitted by mail to Office of General Counsel, Texas Water Development Board, P.O. Box 13231, Austin, Texas 78711-3231, by email to rulescomments@twdb.texas.gov, or by fax to (512) 475-2053. If sent via email, all public comments should be sent directly to rulescomments@twdb.texas.gov. Please do not submit comments through any third-party forms or websites. Receipt of third-party submissions cannot be guaranteed. Comments will be accepted until 5:00 p.m. of the 31st day following publication in the *Texas Register*. Include "Chapter 367" in the subject line of any comments submitted.

STATUTORY AUTHORITY (Texas Government Code §2001.024(a)(3))

The amendment is proposed under the authority of Texas Water Code §6.101, which provides the TWDB with the authority to adopt rules necessary to carry out the powers and duties in the Water Code and other laws of the State, and also under the authority of Texas Water Code §17.912.

This rulemaking affects Water Code, Chapter 17.

*§367.2. Definitions.*

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

(1) Agricultural--Related to the production of food, fiber, or other agricultural projects.

(A) The term includes:

*(i)* the cultivation of soil to produce crops;

*(ii)* horticulture, floriculture, or viticulture;

*(iii)* aquaculture as defined in Texas Agriculture Code, §134.001;

*(iv)* forestry; and

*(v)* the raising or keeping of livestock or poultry.

(B) The term does not include activities that are primarily industrial, municipal, or commercial in nature;

(2) [~~(1)~~] Board--The governing body of the Texas Water Development Board.

(3) [~~(2)~~] Conservation program--A program that is:

(A) an agricultural water conservation technical assistance program, including a program for an on-farm soil and water conservation plan developed jointly by a landowner, an operator, and a local soil and water conservation district as provided by Subchapter H, Chapter 201, Agriculture Code;

(B) a research, demonstration, technology transfer, or educational program relating to agricultural water use and conservation;

(C) a precipitation enhancement program in an area of the state where the program, in the board's judgment, would be most effective;

(D) administered by a state agency that provides funding to a political subdivision or person for a conservation project; or

(E) administered by a political subdivision that provides loans to a person for a conservation project.

(4) [~~(3)~~] Conservation project--A project that:

(A) improves water use efficiency of water delivery and application on existing irrigation systems;

(B) prepares irrigated land for conversion to dryland conditions;

(C) prepares dryland for more efficient use of natural precipitation;

(D) purchases and installs on public or private property devices designed to indicate the amount of water withdrawn for irrigation purposes; or

(E) prepares and maintains land to be used for brush control activities in areas of the state where those activities in the board's judgment would be most effective, including activities conducted under Chapter 203, Agriculture Code.

(5) [~~(4)~~] The actual construction, alteration, or repair of a fixed improvement to real property requiring the preparation of plans, designs or drawings that are required to be prepared by a [~~an~~] professional engineer licensed in the State of Texas.

(6) [~~(5)~~] Eligible cost--Costs of the capital equipment, materials, labor, preparation, installation, or administration directly associated with implementing and completing an agricultural [~~a~~] conservation program or project.

(7) [~~(6)~~] Eligible lending institution--a financial institution that makes commercial loans, is either a designated depository of state funds by the Texas comptroller of public accounts, herein referred to as a state depository, or an institution of the Farm Credit System headquartered in this state, and agrees to participate in a linked deposit program established under Water Code §17.905 and is willing to agree to provide collateral equal to the amount of linked deposits placed with it.

(8) [~~(7)~~] Executive administrator--The executive administrator of the Texas Water Development Board, or an authorized representative of the executive administrator.

(9) [~~(8)~~] Fund--The agricultural water conservation fund authorized by Section 50-d, Article III, of the Texas Constitution.

(10) [~~(9)~~] Linked Deposit--a deposit governed by a linked deposit agreement between the board and an eligible lending institution that requires that:

(A) the eligible lending institution pay interest to the board on the deposit at a rate equal to the asking yield for a U.S. Treasury note with a twelve-month maturity as of the date five days preceding the submission of all the documents required of the eligible lending institution to the executive administrator requesting a linked deposit agreement;

(B) the state not withdraw any part of the deposit except as according to the terms of the linked deposit agreement and the terms of this division; and

(C) the eligible lending institution agree to lend the value of the deposit to a person at a rate not to exceed the interest paid by the eligible lending institution to the board plus four percent;

(11) [~~(10)~~] Linked Deposit Agreement--a written agreement between the board, acting through the executive administrator, and an eligible lending institution providing for the deposit by the board of an amount of money from the fund with the eligible lending institution executed pursuant to the authority and according to the conditions of this chapter.

(12) [~~(11)~~] Person--An individual, corporation, partnership, association, or other legal entity that is not a political subdivision.

(13) [~~(12)~~] Pledged security--Means the securities authorized by these rules and the linked deposit agreement to secure the board's deposit of funds with the eligible lending institution.

(14) [~~(13)~~] Political subdivision--Includes a municipality, county, district or authority created under the Texas Constitution Article III, Section 52, or Article XVI, Section 59, an institution of higher education as defined by §61.003, Education Code, any interstate compact commission to which the state is a party, and any nonprofit water supply corporation created and operating under Texas Water Code Chapter 67.

*§367.3. Eligible Uses of the Fund.*

To the extent authorized by Water Code §17.899, the board may use money in the fund to:

(1) provide a grant to a state agency to pay the eligible costs for an agricultural [~~a~~] conservation program or agricultural conservation project, including an agricultural [~~a~~] conservation program that provides funding to a political subdivision or person for an agricultural [~~a~~] conservation project;

(2) provide a grant or loan to a political subdivision to pay the eligible costs for an agricultural [~~a~~] conservation program or agricultural conservation project; and

(3) provide a linked deposit to an eligible lending institution for a loan to a person for an agricultural [~~a~~] conservation project pursuant to the terms of §§367.15 - 367.20 of this chapter.

*§367.4. Determination of Availability.*

(a) - (c) (No change.)

(d) Eligible applicants may also submit applications for agricultural conservation programs or projects at any time. The executive administrator shall periodically submit all such unsolicited applications for review and consideration by the board.

*§367.5. Application Requirements.*

(a) To be considered by the board, all applications submitted for money from the fund must include:

(1) the official name and address of the applicant;

(2) the constitutional and statutory authority creating the applicant and under which the applicant currently operates;

(3) the names and addresses of the individual or individuals with the legal authority to perform the acts of the entity, and title of position;

(4) an affidavit from the individual with the authority to act on behalf of the applicant, or a certified copy of a resolution adopted or minutes approved by the governing body with the authority to act on behalf of the applicant, which:

(A) identifies the amount that the applicant is requesting;

(B) authorizes the submission of an application on behalf of the entity; and

(C) designates an authorized representative to submit the application and perform all reasonable and necessary action in support of the application and, if approved by the board, to perform the terms and conditions of the award of money from the fund;

(5) the name, address, and title of the designated representative;

(6) a map and description of the geographic area in which the applicant is authorized to conduct such actions as are necessary for the proposed agricultural conservation program or project;

(7) a description of the proposed agricultural conservation program or project that includes:

(A) the geographic area in which it will occur; and

(B) the time schedule in which it will occur;

(8) a proposed budget for the agricultural conservation program or project that identifies:

(A) the total cost;

(B) the cost of each significant element of the program or project; and

(C) other sources of funds, if any;

(9) the predicted water conservation and other benefits that will be created from the proposed agricultural conservation program or project;

(10) a conservation plan and program of work or other sufficient description of the applicant's commitment to water conservation;

(11) identification of a water conservation water management strategy identified in the most recent applicable regional water plan or state water plan that it will be implemented by the use of the grant; and

(12) such additional information that may be requested by the executive administrator or the board.

(b) To be considered by the board, in addition to the requirements of subsection (a) of this section, all applications submitted for loans from the fund must include:

(1) fiscal information with a plan for repayment to the board of the loan; and

(2) if the political subdivision intends to use the board's loan to provide loans to persons;

(A) a description of the types of agricultural conservation projects which will be funded by the loans provided to the political subdivision's applicants;

(B) the standards applied by the political subdivision for the applications, security, repayment, and financial integrity for the loans;

(C) the procedures for considering and approving loan applications submitted to the political subdivision and to assess the financial integrity of the person applying for the loan; and

(D) a sample or adequate description of the agreement pursuant to which the funds will be provided.

*§367.6. Application with Engineering Report.*

In addition to the requirements of §367.5 of this chapter (relating to Application Requirements), if the funds provided by the board will be used for construction of an agricultural [~~a~~] conservation project, to be considered by the board, the application shall include an engineering feasibility report signed and sealed by a professional engineer licensed in the State of Texas which shall contain:

(1) description and purpose of the project;

(2) the cost of the project;

(3) a description of alternatives considered and reasons for the selection of the project proposed;

(4) sufficient information to evaluate the engineering feasibility;

(5) maps and drawings as necessary to locate and describe the project area;

(6) a statement as to whether the proposed construction will require surface or subsurface disturbance of the soil or alter the existing vegetation; and

(7) such other information or data as necessary to evaluate the project and requested by the executive administrator.

*§367.7. Application with Environmental Assessment.*

(a) In addition to the requirements of §367.5 and §367.6 of this chapter (relating to Application Requirements and Application with Engineering Report, respectively), if the funds provided by the board will be used for construction of an agricultural [~~a~~] conservation project which will require surface or subsurface disturbance of the soil or alter the existing vegetation, the applicant shall conduct an environmental assessment in compliance with this section. The purpose of this section is to provide the executive administrator with sufficient information to inform the board whether a proposed project has been adequately reviewed by the regulatory agencies and whether such review provides a reasonable level of certainty that the project will comply with state and federal environmental regulations.

(b) - (f) (No change.)

*§367.12. Construction Requirements.*

(a) This section applies to agricultural conservation projects financed by the board through a grant or loan and which include construction.

(b) Prior to the release of funds for construction of an agricultural [~~a~~] conservation project, an approved applicant shall:

(1) submit to the executive administrator engineering plans and specifications, which shall be as detailed as would be required for submission to contractors bidding on the work and which shall be consistent with the engineering feasibility information submitted with the application;

(2) obtain written approval from the executive administrator of the submitted engineering plans and specifications; and

(3) for projects which the approved applicant will execute construction contracts, prior to receiving bids and awarding the contract, obtain executive administrator approval of the contract documents, such documents to include:

(A) provisions assuring compliance with the board's rules and all relevant statutes;

(B) provisions providing for the district to retain a minimum of 5.0% of the progress payments otherwise due to the contractor until construction is substantially complete and reduction in the retainage is authorized by the executive administrator;

(C) a contractor's act of assurance form to be executed by the contractor which shall warrant compliance by the contractor with all laws of the State of Texas and all rules and published policies of the board; and

(D) any additional conditions that may be requested by the executive administrator.

(c) (No change.)

(d) After the construction contract is awarded, the approved applicant shall:

(1) ensure [~~insure~~] adequate inspection of the project by a registered professional engineer;

(2) obtain assurance from the engineer that the work is performed in a satisfactory manner in accordance with the approved plans and specifications, other engineering design or permit documents, approved alterations, and in accordance with sound engineering principles and construction practices;

(3) allow the executive administrator to inspect the construction and materials of any project at any time; and

(4) take corrective action as necessary to complete the project in accordance with approved plans and specifications or contract documents.

(e) - (f) (No change.)

*§367.13. Amendments to a Program or Project.*

Any substantial alteration which involves a change in the basic purpose of an agricultural conservation [~~a~~] program or project, or which involves an increase in the loan commitment of the board for the project, must be approved in writing by the board. All other changes to the agricultural conservation program or project must be approved by the executive administrator.

*§367.14. Reporting Requirements for Loans.*

A political subdivision that receives an agricultural [~~a~~] conservation program or project loan shall:

(1) upon request of the executive administrator, promptly provide certified copies of all minutes, operating budgets, monthly operating statements, contracts with borrowers, audit reports and other documents concerning the agricultural conservation program or project loan; and

(2) upon request of the executive administrator or at the end of each state fiscal year, shall provide to the executive administrator a report on the loans made to borrowers during the preceding state fiscal year, in a format specified by the executive administrator.

*§367.16. Conditions Prior to Execution.*

(a) Before the executive administrator may execute a linked deposit agreement, a lending institution shall submit to the executive administrator:

(1) the application of a person determined by the eligible lending institution to be eligible and creditworthy to receive a loan according the criteria of the institution;

(2) a draft loan agreement with such person that:

(A) identifies the principal amount of the loan which shall not exceed $250,000;

(B) identifies the interest rate to be paid by the borrower which shall not exceed the interest rate paid by the eligible lending institution to the board plus four percent;

(C) includes a repayment schedule which identifies the dates on which payments are due from the loan recipient to the lending institution;

(D) limits the use of the funds to an agricultural [~~a~~] conservation project certified pursuant to subsection (a)(3) of this section; and

(E) contains such other terms and conditions determined by the eligible lending institution in its sole discretion to be reasonable for the purposes of a private loan agreement;

(3) a certification from:

(A) the eligible lending institution of the interest rate applicable to the proposed loan;

(B) a director of a soil and water conservation district for the district in which the project is located certifying that:

*(i)* the loan recipient has a soil and water conservation plan approved by the district; and

*(ii)* the project furthers or implements such plan; and

(4) such other information or documentation as determined by the executive administrator to be reasonable and necessary to fulfill the objectives of this chapter.

(b) (No change.)

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

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Ashley Harden
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# TITLE 40. SOCIAL SERVICES AND ASSISTANCE

## PART 17. STATE PENSION REVIEW BOARD

### CHAPTER 610. FUNDING SOUNDNESS RESTORATION PLANS

**40 TAC §§610.13 - 610.15, 610.20, 610.21, 610.30 - 610.32**

The Texas Pension Review Board (Board) proposes amendments to 40 Texas Administrative Code (TAC) §§610.13 - 610.15, 610.20, 610.21 and 610.30 - 610.32, regarding the Funding Soundness Restoration Plans for public retirement systems and their associated governmental entities.

The purpose of the proposed amendments is to improve the clarity of the rules, increase compliance with the statutory funding soundness restoration plan (FSRP) requirement, and update program requirements following the passage of the initial statutory deadline of September 1, 2025.

EXPLANATION OF AND JUSTIFICATION FOR THE RULES

In 2015, the legislature passed House Bill 3310, creating the FSRP requirement for public retirement systems with a funding period greater than 40 years. In 2021, the legislature passed House Bill 3898, which updated the FSRP provisions, reducing the triggering funding period to greater than 30 years and adding additional requirements for public retirement systems and their associated governmental entities to formally adopt plans to improve their funding. The Board adopted 40 Texas Administrative Code Chapter 610 in 2022 to implement the updated statutory requirements. The Board recently completed its first quadrennial review of Chapter 610 and now proposes amendments to §§610.13 - 610.15, 610.20, 610.21 and 610.30 - 610.32 to clarify and improve compliance with the FSRP requirement.

SECTION-BY-SECTION SUMMARY

The proposed rules amend 40 TAC §610.13. The proposed rules make a minor grammatical correction.

The proposed rules amend 40 TAC §610.14. The proposed rules would modify the applicability for the rules to specify that the rules apply to systems that submitted a voluntary FSRP only if the system did so before September 1, 2025.

The proposed rules amend 40 TAC §610.15. The proposed rules would require that public retirement systems required by statute to provide a notice of inadequate financing to its members provide a copy of the notice to the Board.

The proposed rules amend 40 TAC §610.20. The proposed rules would modify the applicability for the rules to specify that the rules apply to systems that submitted a legacy FSRP only if the system did so before September 1, 2025. The proposed rules

would amend rule language pertaining to the allowable degree of variation from corridors to remove any appearance of subjectivity. The proposed amendments also make minor technical corrections.

The proposed rules amend 40 TAC §610.21. The proposed rules would make a minor technical correction.

The proposed rules amend 40 TAC §610.30. The proposed rules would specify that a system may submit an FSRP before the deadline so long as the Board reviews and determines the plan is sufficient to amortize the unfunded liability within the statutorily required timeframe.

The proposed rules amend 40 TAC §610.31. The proposed rules would clarify that systems and sponsors must submit statutorily required progress updates and that the progress update must be submitted using a form prescribed by the Board. The proposed amendments also strike outdated references.

The proposed rules amend 40 TAC §610.32. The proposed rules would amend rule language pertaining to the allowable degree of variation from corridors to remove any appearance of subjectivity and would reflect that voluntary FSRPs were previously authorized.

FISCAL IMPACT ON STATE AND LOCAL GOVERNMENT

David Fee, Chief Actuary, has determined that for each year of the first five years the proposed rules are in effect, there are no additional costs or reduction in costs to state or local government as a result of enforcing or administering the proposed rules.

LOCAL EMPLOYMENT IMPACT STATEMENT

Because Mr. Fee has determined that the proposed rules will not affect a local economy, the agency is not required to prepare a local employment impact statement under Texas Government Code Section 2001.022.

PUBLIC BENEFITS

Mr. Fee has determined that for each year of the first five-year period the proposed rules are in effect, the public benefit is to improve efficiency of and compliance with the Funding Soundness Restoration Plan requirement and other related requirements, helping to ensure the long-term financial health of Texas public retirement systems.

PROBABLE ECONOMIC COSTS TO PERSONS REQUIRED TO COMPLY WITH PROPOSAL

Mr. Fee has determined that for each year of the first five-year period the proposed rules are in effect, there are no anticipated economic costs to persons who are required to comply with the proposed rules.

FISCAL IMPACT ON SMALL BUSINESSES, MICRO-BUSINESSES, AND RURAL COMMUNITIES

There will be no adverse economic effect on small businesses, micro-businesses, or rural communities as a result of the proposed rules. Because the agency has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities, preparation of an Economic Impact Statement and a Regulatory Flexibility Analysis, as detailed under Texas Government Code Section 2006.002, is not required.

ONE-FOR-ONE REQUIREMENT FOR RULES WITH A FISCAL IMPACT

The proposed rules do not have a fiscal note that imposes a cost on regulated persons, including another state agency, a special district, or a local government. Therefore, the agency is not required to take any further action under Texas Government Code Section 2001.0045.

GOVERNMENT GROWTH IMPACT STATEMENT

Pursuant to Texas Government Code Section 2001.0221, the agency provides the following Government Growth Impact Statement for the proposed rules. For each year of the first five years the proposed rules will be in effect, the agency has determined the following:

(1) The proposed rules do not create or eliminate a government program.

(2) Implementation of the proposed rules does not require the creation of new employee positions or the elimination of existing employee positions.

(3) Implementation of the proposed rules does not require an increase or decrease in future legislative appropriations to the agency.

(4) The proposed rules do not require an increase or decrease in fees paid to the Board.

(5) The proposed rules do not create a new regulation.

(6) The proposed rules do not expand, limit, or repeal an existing regulation.

(7) The proposed rules do not increase or decrease the number of individuals subject to the rules' applicability.

(8) The proposed rules do not positively or adversely affect the state economy.

TAKINGS IMPACT ASSESSMENT

The Pension Review Board has determined that no private real property interests are affected by the proposed rules, and the proposed rules do not restrict, limit, or impose a burden on an owner's rights to his or her private real property that would otherwise exist in the absence of government action. As a result, the proposed rules do not constitute a taking or require a takings impact assessment under Texas Government Code Section 2007.043.

PUBLIC COMMENTS AND INFORMATION RELATED TO THE COST, BENEFIT, OR EFFECT OF THE PROPOSED RULES

The Pension Review Board is requesting public comments on the proposed rules and information related to the cost, benefit, or effect of the proposed rules, including any applicable data, research, or analysis. Any information that is submitted in response to this request must include an explanation of how and why the submitted information is specific to the proposed rules. Please do not submit copyrighted, confidential, or proprietary information.

Comments on the proposed rules and responses to the request for information may be submitted by email to rules@prb.texas.gov or by mail to Tamara Aronstein, General Counsel, Texas Pension Review Board, P.O. Box 13498, Austin, Texas 78711-3498. The deadline for comments is 30 days after publication in the *Texas Register*.

STATUTORY AUTHORITY

The proposed rules are proposed under Texas Government Code Sections 802.2015(h) and 802.2016(h), which authorize

the Pension Review Board to adopt rules as necessary to implement the Funding Soundness Restoration Plan requirement.

The statutory provisions affected by the proposed rules are those set forth in Texas Government Code Sections 802.106, 802.2015, and 802.2016.

*§610.13. Definitions.*

When used in this chapter, the terms listed below shall have the following meanings:

(1) "Board" means State Pension Review Board.

(2) "Compliance corridor" means the acceptable range of variation from a system's baseline for the system's funding period or funded ratio, as further described in board rules that concern a system's adherence to a funding soundness restoration plan, and related figures.

(3) "Formulated" means finalized and approved by the appropriate decision-making bodies.

(4) "Funded ratio" has the meaning assigned by Texas Government Code §802.2011.

(5) "Funding period" means the length of time it would take to fully fund the unfunded actuarial accrued liability under the current actuarial assumption based on the greater of the actuarial value of assets or the market value of assets.

(6) "Governmental entity" has the meaning assigned by §802.1012, Texas Government Code.

(7) "Legacy funding soundness restoration plan" or "L-FSRP" means a funding soundness restoration plan formulated prior to September 1, 2021, accepted by the board, and governed by the law as it existed immediately before that date.

(8) "Public retirement system" has a meaning as defined by §801.001(2) and §802.001(3), Texas Government Code but shall not include defined contribution plans as defined by §802.001(1-a), Texas Government Code or retirement systems consisting exclusively of volunteers organized under the Texas Local Fire Fighters' Retirement Act as defined by §802.002(d), Texas Government Code.

(9) "Revised funding soundness restoration plan" or "R-FSRP" means a funding soundness restoration plan prepared under §802.2015(e-1) or §802.2016(e-1), Texas Government Code, which includes additional components compared to a funding soundness restoration plan prepared under §802.2015(e) or §802.2016(e), Texas Government Code.

(10) "Revised funding soundness restoration plan exemption" or "revision exemption" means the applicable section of either Texas Government Code §§802.2015(d-1) or 802.2016(d-1) under which qualifying systems prepare a funding soundness restoration plan under Texas Government Code §§802.2015(e) or 802.2016(e) rather than a revised funding soundness restoration plan.

(11) "Target date" means the 10th anniversary of the date on which the final version of a legacy funding soundness restoration plan was agreed to as required by law as it existed immediately before September 1, 2021.

(12) "Valuation date" means the date as of which the actuarial accrued liability and the actuarial value of assets are determined, often the first or last day of the plan year as specified in the valuation.

(13) "Voluntary funding soundness restoration plan" or "V-FSRP" means a funding soundness restoration plan formulated, submitted, and completed under either Texas Government Code §802.2015 or §802.2016 as it stands after September 1, 2021, without the system or associated governmental entity first becoming subject to the requirement.

*§610.14. Applicability.*

This chapter applies to every public retirement system and its associated governmental entity that is subject to Texas Government Code §802.2015 or §802.2016 and to a system or associated governmental entity that chose [~~choose~~] to submit a voluntary funding soundness restoration plan prior to September 1, 2025.

*§610.15. Required Disclosure of Inadequate Financing Arrangement to Plan Members.*

(a) A notification to the associated governmental entity under Texas Government Code §802.2015(c) or §802.2016(c) regarding an actuarial valuation that indicates the public retirement system's actual contributions are not sufficient to amortize the unfunded liability within 30 years, means that the financing of the system is inadequate for the purposes of §802.106(d), Texas Government Code.

(b) The disclosure to members of an actuarial determination of an inadequate financing arrangement required under Texas Government Code §802.106(d) shall be accompanied by a notice that the system is subject to the funding soundness restoration plan requirement under Texas Government Code §802.2015(c) or §802.2016(c) when a system becomes subject to the requirement.

(c) A system required to provide a disclosure to members of an actuarial determination of an inadequate financing arrangement shall provide the disclosure to its members with the next annual benefit statement and a copy of the disclosure to the board within 30 days of sending the disclosure to members.

*§610.20. Criteria for Determining Adherence to a Legacy Funding Soundness Restoration Plan.*

(a) A public retirement system is adhering to a legacy funding soundness restoration plan if the system's actuarial valuation shows:

(1) the funding period is expected to fall within 40 years by the target date, [~~and~~] so long as the system's funding period continues to shorten while the system's funding period is above 40 years and does not increase to a length of time greater than 40 years after falling below 40 years; or

(2) an increase in funding period compared to the previous valuation, and the system's actuarial valuation shows that, between the valuation date and the system's target date, the system's funding period or funded ratio remains within the compliance corridor adopted in board rule. If the system's funding period is infinite, only the funded ratio will be evaluated to determine compliance for the purposes of this paragraph.

(b) A public retirement system with a legacy funding soundness restoration plan may submit a projection to serve as the baseline for the purpose of this subsection prior to September 1, 2025. This projection must show the projected funded ratio and funding period for each year beginning with the current date until the target date. For any years the system's funding period is projected to be above 40 years, the corridor will be based on the baseline. For any years the system's funding period is projected to be below 40 years, the compliance corridor will be based on a minimum of 40 years. If the system does not submit such a projection to the board for this purpose, the board will determine adherence to the legacy funding soundness restoration plan using a baseline in which a system's funding period must decrease by one year every consecutive year as measured on the anniversary of the date on which the final version of the funding soundness restoration plan was agreed to as required by law.

(c) The allowable degree of variation from the baseline will begin at five percent for a funded ratio corridor or ten years for a fund-

ing period corridor and will decrease over the period between the current date and the target date as described by Figure: 40 TAC §610.20(c). A system would be considered compliant if the funded ratio exceeds the minimum threshold or funding period falls below the maximum threshold [~~plan experience exceeds a corridor in a favorable way~~]. The board will use each system's baseline to provide a compliance corridor unique to that system based on their funding period and funded ratio, using the corridor sizes specified in these rules.
Figure: 40 TAC §610.20(c) (No change.)

*§610.21. Completion of a Legacy Funding Soundness Restoration Plan.*

(a) A public retirement system adhering to a legacy funding soundness restoration plan may continue following that plan until the earlier of:

(1) the target date; or,

(2) the date of an actuarial valuation that indicates the system's funding period is at or below 30 years.

(b) Actuarial [~~actuarial~~] valuations with valuation dates during a time that a system is adhering to a legacy funding soundness restoration plan shall not be counted towards triggering a funding soundness restoration plan under Texas Government Code §802.2015(c) or §802.2016(c) as it stands after September 1, 2021, until after the applicable date described in subsection (a) of this section when the system completes the legacy funding soundness restoration plan.

*§610.30. Submission and Completion Criteria for the Funding Soundness Restoration Plan Requirement.*

(a) The board will consider a retirement system to have submitted a funding soundness restoration plan when the board receives:

(1) a completed form approved by the board for this purpose;

(2) any supplementary or explanatory documents necessary to illustrate how the system's funding period will be within the maximum by the prescribed date, including a revised funding policy; and

(3) documentation of the date the plan was adopted by both the governing body of the system and of the governmental entity. Documentation may include the minutes or other record of an open meeting when each adoption occurred.

(b) The board will consider a retirement system to have completed the funding soundness restoration plan requirement when the board receives an actuarial valuation or separate analysis under Texas Government Code §§802.2015(e-2) or 802.2016(e-2) and the staff actuary or board actuary determines the actuarial valuation or separate analysis complies with actuarial standards of practice. An actuarial valuation and separate analysis are equivalent for the purposes of Texas Government Code §§802.2015(e-2) or 802.2016(e-2) and either may be submitted in lieu of the other during the respective submission periods, provided it includes the components required by the applicable subsection.

(c) For a system submitting a revised funding soundness restoration plan with specific changes required by statute, "automatic risk-sharing mechanisms" means changes to plan provisions, including adjustments to benefit levels or contribution amounts, upon meeting or exceeding certain criteria established beforehand without needing additional approval at the time of the change. The plan shall specify how the changes to the contribution amounts are split between the employer and members. At least one of the automatic risk-sharing mechanisms included in the plan must be an adjustable benefit or contribution mechanism.

(d) A system or associated governmental entity shall submit to the board the materials related to a funding soundness restoration plan that adequately fulfill the analysis and documentation requirements in statute and rules to be considered compliant. If the board determines the materials are inadequate, the board will notify the system of the determination with an explanation of the reason and may request additional information. The system shall submit additional materials consistent with the board's instructions. The board would consider a system noncompliant if the board does not receive the system's funding soundness restoration plan; if the system fails to comply with an approved funding soundness restoration plan, revised funding soundness restoration plan, or other type of funding soundness restoration plan; or if the system fails to submit to the board the funding soundness restoration plan materials that adequately satisfy the requirements in statute and board rules within the appropriate time periods for those materials.

(e) A system may submit a funding soundness restoration plan to the board prior to the second anniversary of the valuation date stated in the actuarial valuation that required formulation of the plan, so long as the board reviews the plan and determines it is sufficient to amortize the unfunded actuarial accrued liability within 30 years of the second anniversary of the triggering valuation.

*§610.31. Compliance with Progress Updates.*

(a) A system adhering to a legacy funding soundness restoration plan shall continue providing progress updates every two years rather than submitting progress updates in accordance with this section.

(b) The first draft of a plan submitted as a part of a progress update under Texas Government Code §§802.2015(f) or 802.2016(f) must, at minimum, include a projected timeline for enactment of the plan, and identify the action that various entities must take to approve or enact the plan, such as votes that may be necessary in accordance with the system's governing statute. Each subsequent progress update should include a draft plan that contains updated information and that demonstrates movement toward a complete and finalized plan.

(c) A description of changes submitted as part of a progress update to fulfill the requirements of Texas Government Code §§802.2015(f) or 802.2016(f) must include the projected actuarial impact of each change under consideration on the retirement system's funding period and funded ratio.

[~~(d) A system must submit updates consistent with subsections (b) and (c) of this section to the board starting September 1, 2023, and every six months thereafter until the system submits a funding soundness restoration plan to the board and the board determines it is compliant if the system:~~]

[~~(1) received an actuarial valuation dated prior to September 1, 2021, that triggered a funding soundness restoration plan requirement; and~~]

[~~(2) does not have a board-approved legacy funding soundness restoration plan.~~]

(d) [~~(e)~~] A system and the [~~or~~] associated governmental entity that receives an actuarial valuation [~~dated after September 1, 2021,~~] that triggers a funding soundness restoration plan, including a revised funding soundness restoration plan, must submit updates to the board beginning not later than the first anniversary of the valuation date of the actuarial valuation that required formulation of the plan and every subsequent six-month period until the plan is submitted as described in Texas Government Code §§802.2015(f) or 802.2016(f).

(e) The system and associated governmental entity shall submit progress updates in a form prescribed by the board.

[~~(f) A system or associated governmental entity preparing a voluntary funding soundness restoration plan is not required to submit progress updates to the board.~~]

*§610.32. Revised Funding Soundness Restoration Plan Exemption.*

(a) A public retirement system is adhering to a funding soundness restoration plan formulated between September 1, 2021, and September 1, 2025, if, during the period between the date the funding soundness restoration plan is adopted by the system and governmental entity and the 10th anniversary of the applicable date for the funding soundness restoration plan to be formulated and the system to be within the maximum funding period prescribed by Texas Government Code §§802.2015(e)(2) or 802.2016(e)(2), the system's actuarial valuation shows the system's funding period or funded ratio remain within the applicable compliance corridors established in this section. If the system's funding period is infinite, only the funded ratio will be evaluated to determine compliance for the purposes of this subsection.

(b) The baseline for a system's funding period compliance corridor will be 30 years, and the baseline for the funded ratio corridor will be the actuarial projection of the system's expected future actuarial value of assets and liabilities submitted as part of an actuarial valuation or separate analysis in accordance with either Texas Government Code §§802.2015(e-2)(1) or 802.2016(e-2)(1).

(c) The allowable degree of variation from the baseline will begin at five percent for a funded ratio corridor or ten years for a funding period corridor and will decrease over the 10-year period as described by Figure: 40 TAC §610.32(c). A system would be considered compliant if the funded ratio exceeds the minimum threshold or funding period falls below the maximum threshold [~~plan experience exceeds the corridor in a favorable way~~]. The board will use each system's baseline to provide a compliance corridor unique to that system based on their amortization period and funded ratio, using the corridor sizes specified in these rules.
Figure: 40 TAC §610.32(c) (No change.)

(d) A system may submit a voluntary funding soundness restoration plan prior to September 1, 2025 without first becoming subject to the requirement, for the purposes of qualifying for the revision exemption, provided the V-FSRP is consistent with all applicable submission requirements in statute and rules.

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

Filed with the Office of the Secretary of State on July 24, 2026.

TRD-202603141
Tamara Aronstein
General Counsel
State Pension Review Board
Earliest possible date of adoption: September 6, 2026
For further information, please call: (512) 463-1736

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# PART 20. TEXAS WORKFORCE COMMISSION

## CHAPTER 800. GENERAL ADMINISTRATION

The Texas Workforce Commission (TWC) proposes amendments to the following sections of Chapter 800, relating to General Administration:

Subchapter A. General Provisions, §800.2

Subchapter B. Allocations, §§800.57, 800.58, and 800.68

Subchapter F. Interagency Matters, §800.201 and §800.205

Subchapter G. Petition for Adoption of Rules, §§800.251 - 800.255

Subchapter H. Vendor Protests, §800.301

Subchapter I. Enhanced Contract Monitoring, §§800.350 - 800.352

Subchapter L. Workforce Diploma Pilot Program, §800.502

TWC proposes the repeal of the following sections of Chapter 800, relating to General Administration:

Subchapter B. Allocations, §800.69

Subchapter F. Interagency Matters, §§800.202 - 800.204

PART I. PURPOSE, BACKGROUND, AND AUTHORITY

The purpose of the proposed Chapter 800 rule change is to make technical, clarifying, and conforming updates throughout the chapter. These revisions modernize the text by repealing obsolete rules, updating references, and ensuring consistency across TWC's rules.

PART II. EXPLANATION OF INDIVIDUAL PROVISIONS

(Note: Minor editorial changes are made that do not change the meaning of the rules and, therefore, are not discussed in the Explanation of Individual Provisions.)

SUBCHAPTER A. GENERAL PROVISIONS

TWC proposes the following amendments to Subchapter A:

§800.2. Definitions

Section 800.2 is amended to update a reference to federal regulation in the definition of "Board," rearrange the order of the definitions of "Trade Act Services" and "Texas Workforce Investment Council," and make minor stylistic changes.

SUBCHAPTER B. ALLOCATIONS

TWC proposes the following amendments to Subchapter B:

§800.57. Employment Services

Section 800.57 is amended to better align Employment Services allocations with the flexibility TWC is granted by both federal and state laws, including Texas Labor Code, §302.062.

§800.58. Child Care

Section 800.58 is amended to refine the rule and require that the child care allocation must be sufficient to ensure that children eligible for the first priority group described in 40 TAC §809.43 are assured child care services. This section is also amended to align with Texas Government Code, §2308.317, regarding the minimum 2 percent of each Board child care allocation that must be used for quality child care initiatives.

§800.68. Adult Education and Literacy

Section 800.68 is amended to require grant funds be awarded to entities with demonstrated effectiveness through a competitive procurement process. This section is also amended to align with Texas Labor Code, §315.002(b-1), which states that the Commission will establish performance requirements that grant recipients must satisfy to qualify for a continuing award of funds based on achievement of enrollment targets and performance

benchmarks as well as prioritizing funds to grant recipients who consistently satisfy those enrollment targets and performance benchmarks. Separately, Texas Labor Code, §315.007, requires that the Commission also establish criteria that support additional performance incentive funding for grant recipients who meet specific criteria annually.

§800.69. Integrated English Literacy and Civics Education Program

Section 800.69 is repealed because Adult Education and Literacy Integrated English Literacy and Civics Education grants are awarded based on procurement only, and no factor data allocations are performed. Grantees continue to be awarded the same proportional allocation each year of the contract grant based on available funds per Workforce Innovation and Opportunity Act, Section 243.

SUBCHAPTER F. INTERAGENCY MATTERS

TWC proposes the following amendments to Subchapter F:

§800.201. Title and Purpose

Section 800.201 is amended to more accurately describe the subchapter's purpose.

§800.202. Memorandum of Understanding with Texas Commission for the Deaf and Hard of Hearing

Section 800.202 is repealed because it is no longer statutorily required and, therefore, unnecessary. Texas Human Resources Code, §81.017(a), requires TWC and other state agencies to adopt an MOU to coordinate the delivery of services to people who are deaf or hard of hearing and reduce duplication of services. While the original statute, enacted by House Bill (HB) 550, 70th Texas Legislature, 1987, required the agencies to adopt the MOU by rule, HB 1401, 76th Texas Legislature, Regular Session, 1999, removed that requirement.

§800.203. Memorandum of Understanding with Texas Education Agency

Section 800.203 is repealed because it is outdated and no longer statutorily required. HB 2823, 78th Texas Legislature, Regular Session, 2003, amended Texas Education Code, §29.011(a), to remove the requirement for an interagency MOU concerning transition planning for students enrolled in special education. Furthermore, the rule's reference to 19 TAC §89.1110 is obsolete, as that section has been repealed by the Texas Education Agency.

§800.204. Memorandum of Understanding with Texas Department of Economic Development

Section 800.204 is repealed because it is outdated and no longer statutorily required.

Senate Bill 275 (SB 275), 78th Texas Legislature, Regular Session, 2003, repealed Texas Government Code, §481.028, which had directed the Texas Department of Economic Development (TDED) to enter into memoranda of understanding with TWC.

SB 275 also abolished TDED and transferred its powers to the Office of the Governor (OOG).

Subsequently, OOG repealed its corresponding administrative rule, 10 TAC §195.2 (Memorandum of Understanding with the Texas Workforce Commission).

§800.205. Memoranda of Understanding with a Governmental Entity Pursuant to Texas Government Code §497.0596(a)(4)

Section 800.205 is amended to update the mailing address for requesting a copy of an MOU, make minor style and clarifying changes to the rule language, and replace "Memoranda" with "Memorandum" in the section title.

SUBCHAPTER G. PETITION FOR ADOPTION OF RULES

TWC proposes the following amendments to Subchapter G:

§800.251. Title and Purpose

Section 800.251 is renamed "Purpose" and amended to more accurately describe the subchapter's purpose.

§800.252. Definitions

Section 800.252 is amended to define "petition" and remove the definition for "Commission," because it is defined in §800.2(7).

§800.253. Submission and Petition Requirements

Section 800.253 is amended to clarify the minimum required contents of a petition.

§800.254. Review of Petition

Section 800.254 is amended to clarify that "days" means calendar days.

§800.255. Commission Decision and Action

Section 800.255 is amended to clarify when the Commission shall issue its final decision in response to a petition.

SUBCHAPTER H. VENDOR PROTESTS

TWC proposes the following amendments to Subchapter H:

§800.301. Vendor Protest Procedures

Section 800.301 is amended to add a designated email address as an acceptable way for a vendor to submit a formal protest to TWC.

SUBCHAPTER I. ENHANCED CONTRACT MONITORING

TWC proposes the following amendments to Subchapter I:

§800.350. Purpose and Scope

Section 800.350 is amended to add two more specific types of state agency contracts exempt from the enhanced monitoring provisions under Texas Government Code, §2261.253(c).

§800.351. Enhanced Contract Monitoring Policy

Section 800.351 is amended to change the name of the Regulatory Integrity Division to "Fraud Deterrence and Compliance Monitoring."

§800.352. Reporting of Enhanced Contract Monitoring

Section 800.352 is renamed "Reporting on Enhanced Contract Monitoring."

Section 800.352 is amended to refine TWC's enhanced contract monitoring reporting process, including the reporting of any contract with a total contract value exceeding $1 million, as required under Texas Government Code, §2261.254.

SUBCHAPTER L. WORKFORCE DIPLOMA PILOT PROGRAM

TWC proposes the following amendments to Subchapter L:

§800.502. Request for Qualifications and List of Qualified Providers

Section 800.502 is amended to add new §800.502(d) to specify that an approved provider does not need to reapply to participate

in the Workforce Diploma Pilot program unless the provider has been removed from the list for not meeting the minimum performance standards for two consecutive calendar years.

PART III. IMPACT STATEMENTS

Chris Nelson, Chief Financial Officer, has determined that for each year of the first five years the proposed rules will be in effect, the following statements will apply:

There are no additional estimated costs to the state and to local governments expected as a result of enforcing or administering the proposed rules.

There are no estimated cost reductions to the state and to local governments as a result of enforcing or administering the proposed rules.

There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the proposed rules.

There are no foreseeable implications relating to costs or revenue of the state or local governments as a result of enforcing or administering the proposed rules.

There are no anticipated economic costs to individuals required to comply with the proposed rules.

There is no anticipated adverse economic impact on small businesses, microbusinesses, or rural communities as a result of enforcing or administering the proposed rules.

Based on the analyses required by Texas Government Code, §2001.024, TWC has determined that the requirement to repeal or amend a rule, as required by Texas Government Code, §2001.0045, does not apply to this rulemaking.

Takings Impact Assessment

Under Texas Government Code, §2007.002(5), "taking" means a governmental action that affects private real property, in whole or in part or temporarily or permanently, in a manner that requires the governmental entity to compensate the private real property owner as provided by the Fifth and Fourteenth Amendments to the US Constitution or the Texas Constitution, §17 or §19, Article I, or restricts or limits the owner's right to the property that would otherwise exist in the absence of the governmental action, and is the producing cause of a reduction of at least 25 percent in the market value of the affected private real property, determined by comparing the market value of the property as if the governmental action is not in effect and the market value of the property determined as if the governmental action is in effect. TWC completed a Takings Impact Assessment for the proposed rulemaking under Texas Government Code, §2007.043. The primary purpose of this proposed rulemaking, as discussed elsewhere in this preamble, is to amend rules that were identified as requiring revision during the review of Chapter 800.

The proposed rulemaking action will not create any additional burden on private real property or affect private real property in a manner that would require compensation to private real property owners under the US Constitution or the Texas Constitution. The proposal also will not affect private real property in a manner that restricts or limits an owner's right to the property that would otherwise exist in the absence of the governmental action. Therefore, the proposed rulemaking will not cause a taking under Texas Government Code, Chapter 2007.

Government Growth Impact Statement

TWC has determined that during the first five years the proposed rules are in effect, the rules:

--will not create or eliminate a government program;

--will not require the creation or elimination of employee positions;

--will not require an increase or decrease in future legislative appropriations to TWC;

--will not require an increase or decrease in fees paid to TWC;

--will not create a new regulation;

--will not expand, limit, or eliminate an existing regulation;

--will not change the number of individuals subject to the rules; and

--will not positively or adversely affect the state's economy.

Economic Impact Statement and Regulatory Flexibility Analysis

TWC has determined that the proposed rules will not have an adverse economic impact on small businesses or rural communities, as the proposed rules place no requirements on small businesses or rural communities.

Mariana Vega, Director, Labor Market Information, has determined that there is not a significant negative impact upon employment conditions in the state as a result of the proposed rules.

Les Trobman, General Counsel, has determined that the anticipated public benefit of the proposed rules will be updated rules that align with current statutory requirements and TWC practices and removal of obsolete rules from the Texas Administrative Code.

PART IV. REQUEST FOR IMPACT INFORMATION

TWC requests, from any person required to comply with the proposed rules or any other interested person, information related to the cost, benefit, or effect of the proposed rules, including any applicable data, research, or analysis. Please submit the requested information to TWCPolicyComments@twc.texas.gov no later than September 7, 2026.

PART V. PUBLIC COMMENTS

Comments on the proposed rules may be submitted to TWCPolicyComments@twc.texas.gov and must be received no later than September 7, 2026.

## SUBCHAPTER A. GENERAL PROVISIONS

### 40 TAC §800.2

PART VI. STATUTORY AUTHORITY

The rule is proposed under the following statutory authority:

Texas Labor Code, §301.0015(a)(6), which provides TWC with the authority to adopt, amend, or repeal such rules necessary for the effective administration of TWC services and activities.

The proposed rule relates to Texas Labor Code, Chapter 301.

*§800.2. Definitions.*

The following words and terms, when used in this part, relating to the Texas Workforce Commission, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Adult Education and Literacy (AEL)--Academic instruction and education services below the postsecondary level that increase an individual's ability to:

(A) read, write, and speak in English and perform mathematics or other activities necessary for the attainment of a secondary school diploma or its recognized equivalent;

(B) participate in job training and retraining programs or transition to postsecondary education and training; and

(C) obtain and retain employment.

(2) Agency--The unit of state government established under Texas Labor Code, Chapter 301, that is presided over by the Commission and administered by the executive director to operate the integrated workforce development system and administer the unemployment compensation insurance program in this state as established under the Texas Unemployment Compensation Act, Texas Labor Code, Title 4, Subtitle A, as amended. The definition of "Agency" shall apply to all uses of the term in rules contained in this part, unless otherwise defined, relating to the Texas Workforce Commission.

(3) Allocation--The amount approved by the Commission for expenditures to a local workforce development area during a specified program year, according to specific state and federal requirements.

(4) Board--A Local Workforce Development Board created pursuant to Texas Government Code, §2308.253, and certified by the governor pursuant to Texas Government Code, §2308.261. This includes such a Board when functioning as the Local Workforce Investment Board as described in the Workforce Innovation and Opportunity Act (WIOA) §107 (29 USC §3122), including those functions required of a youth standing committee, as provided for under WIOA §107(i). The definition of Board shall apply to all uses of the term in the rules contained in this part, or unless otherwise defined, relating to the Texas Workforce Commission. Boards are subrecipients as defined in the Uniform Guidance under 2 Code of Federal Regulations (CFR) Part 200 [~~OMB Circular A-133~~].

(5) Child Care--Child care services funded through the Commission, which may include services funded under the Child Care and Development Fund, WIOA, and other funds available to the Commission or a Board to provide quality child care to assist families seeking to become independent from, or who are at risk of becoming dependent on, public assistance while parents are either working or participating in educational or training activities in accordance with state and federal statutes and regulations.

(6) Choices--The employment and training activities created under Texas Human Resources Code, §31.0126, [~~of the Texas Human Resources Code~~] and funded under Temporary Assistance for Needy Families (TANF) (42 USC 601 et seq. [~~et.seq.~~]) to assist individuals who are receiving temporary cash assistance, transitioning off, or at risk of becoming dependent on temporary cash assistance or other public assistance in obtaining and retaining employment.

(7) Commission--The body of governance of the Texas Workforce Commission composed of three members appointed by the governor as established under Texas Labor Code, §301.002, that includes one representative of labor, one representative of employers, and one representative of the public. The definition of Commission shall apply to all uses of the term in rules contained in this part, unless otherwise defined, relating to the Texas Workforce Commission.

(8) Formal Measures--Workforce development services performance measures adopted by the governor and developed and recommended through the Texas Workforce Investment Council [~~(TWIC)~~].

(9) Employment Service--A program to match qualified job seekers with employers through a statewide network of one-stop career centers. (Wagner-Peyser Act of 1933 (Title 29 USC, Chapter 4B) as amended by WIOA (PL 113-128)).

(10) Executive Director--The individual appointed by the Commission to administer the daily operations of the Agency, which may include an individual delegated by the Executive Director to perform a specific function on behalf of the Executive Director.

(11) Historically Underutilized Business (HUB)--A business entity as defined in 34 Texas Administrative Code (TAC) §20.282 that is certified by the State of Texas, has not exceeded the standards for size established by 34 TAC §20.294, and has established Texas as its principal place of business.

(12) Local Workforce Development Area (workforce area)--Workforce areas designated by the governor pursuant to Texas Government Code, §2308.252, and functioning as a Local Workforce Investment Area, as provided for under WIOA §106 and §189(i)(1) (29 USC §3121 and §3249).

(13) One-Stop Service Delivery Network--A one-stop--based network under which entities responsible for administering separate workforce investment, educational, and other human resources programs and funding streams collaborate to create a seamless network of service delivery that shall enhance the availability of services through the use of all available access and coordination methods, including telephonic and electronic methods--also known as Texas Workforce Solutions.

(14) Performance Measure--An expected performance outcome or result.

(15) Performance Target--A contracted numerical value setting the acceptable and expected performance outcome or result to be achieved for a performance measure, including Core Outcome Formal Measures. Achievement between 95 and 105 percent of the established target is considered meeting the target.

(16) Program Year--The twelve-month period applicable to the following as specified:

(A) Child Care: October 1 - September 30;

(B) Choices: October 1 - September 30;

(C) Employment Service: October 1 - September 30;

(D) Supplemental Nutrition Assistance Program Employment and Training: October 1 - September 30;

(E) Workforce Innovation and Opportunity Act (WIOA) Vocational Rehabilitation: October 1 - September 30;

(F) Trade Act services: October 1 - September 30;

(G) WIOA Adult, Dislocated Worker, and Youth formula funds: July 1 - June 30;

(H) WIOA Alternative Funding for Statewide Activities: October 1 - September 30;

(I) WIOA Alternative Funding for One-Stop Enhancements: October 1 - September 30; and

(J) WIOA, Adult Education and Literacy: July 1 - June 30.

(17) Supplemental Nutrition Assistance Program Employment and Training (SNAP E&T)--A program to assist SNAP recipients to become self-supporting through participation in activities that include employment, job readiness, education, and training, activities authorized and engaged in as specified by federal statutes and regula-

tions (7 USC §2011), and Chapter 813 of this title [~~relating to Supplemental Nutrition Assistance Program Employment and Training~~].

(18) TANF--Temporary Assistance for Needy Families, which may include temporary cash assistance and other temporary assistance for eligible individuals, as defined in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as amended (7 USC §2011 et seq.) and the TANF statutes and regulations (42 USC §601 et seq.[~~)~~], and 45 CFR [~~Code of Federal Regulations (CFR)~~] Parts 260 - 265). TANF may also include the TANF State Program (TANF SP), relating to two-parent families, which is codified in Texas Human Resources Code, Chapter 34.

[~~(19) Trade Act Services--Programs authorized by the Trade Act of 1974, as amended (and 20 CFR Part 617) providing services to dislocated workers eligible for Trade benefits through Workforce Solutions Offices.~~]

(19) [~~(20)~~] Texas Workforce Investment Council (TWIC)--Appointed [~~Texas Workforce Investment Council, appointed~~] by the governor pursuant to Texas Government Code, §2308.052, and functioning as the State Workforce Investment Board, as provided for under WIOA §101(e) (29 USC §3111(e). Additionally [~~In addition~~], pursuant to WIOA §193(a)(5) (29 USC §3253(a)(5)), TWIC maintains the duties, responsibilities, powers, and limitations as provided in Texas Government Code, §§2308.101 - 2308.105.

(20) Trade Act Services--Programs authorized by the Trade Act of 1974, as amended (and 20 CFR Part 617) providing services to dislocated workers eligible for Trade benefits through Workforce Solutions Offices.

(21) WIOA--Workforce Innovation and Opportunity Act--(PL 113 - 128, 29 USC §3101 et seq.). References to WIOA include references to WIOA formula-allocated funds unless specifically stated otherwise.

(22) WIOA Formula-Allocated Funds--Funds allocated by formula to workforce areas for each of the following separate categories of services: WIOA adult, dislocated worker, and youth (excluding the secretary's and governor's reserve funds and rapid response funds).

(23) Workforce Solutions Offices Partner--An entity that carries out a workforce investment, educational, or other human resources program or activity, and that participates in the operation of the One-Stop Service Delivery Network in a workforce area consistent with the terms of a memorandum of understanding entered into between the entity and the Board.

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

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Les Trobman
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Texas Workforce Commission
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## SUBCHAPTER B. ALLOCATIONS

### 40 TAC §§800.57, 800.58, 800.68

The rules are proposed under the following statutory authority:

--Texas Labor Code, §301.0015(a)(6), which provides TWC with the authority to adopt, amend, or repeal such rules necessary for the effective administration of TWC services and activities.

--Texas Labor Code, §302.002(d), which requires TWC to adopt rules as necessary for the administration of workforce programs.

--Texas Labor Code, §315.002(d), which allows TWC to adopt rules for the administration of adult education and literacy (AEL) programs.

--Texas Labor Code, §315.007(a), which requires TWC to adopt rules establishing a performance-based process for awarding funds for the provision of AEL services.

The proposed rules relate to Texas Labor Code, Chapters 302 and 315.

*§800.57. Employment Services.*

(a) Employment Services funds available to the Commission to provide Employment Services under §7(a) of the Wagner-Peyser Act (29 USCA [~~U.S.C.A.~~] Chapter 4B) will be utilized by the Commission as set forth in subsection (b) of this section.

(b) At least 80 percent [~~80%~~] of the Employment Services funds available to local workforce areas under §7(a) of the Wagner-Peyser Act (29 USCA [~~U.S.C.A.~~] Chapter 4B, including §49(c)) will be utilized by the Commission within the workforce areas according to the established federal formula, as follows:

(1) Two-thirds will be based on the relative proportion of the total civilian labor force residing within the workforce area to the statewide total civilian labor force[~~.~~];

(2) One-third will be based on the relative proportion of the total number of unemployed individuals residing within the workforce area to the statewide total number of unemployed individuals; and

(3) the application of a hold harmless/stop gain procedure.

(c) No more than 10 percent [~~10%~~] of the funds expended as part of a workforce area's allocation shall be used for administrative costs, as defined by appropriate federal regulations and Commission policy.

*§800.58. Child Care.*

(a) Funds available to the Commission for child care services will be allocated to the workforce areas using need-based formulas, as set forth in this section.

(b) Child Care and Development Fund (CCDF) Mandatory Funds authorized under the Social Security Act, §418(a)(1), as amended, together with state general revenue Maintenance of Effort (MOE) Funds, Social Services Block Grant funds, TANF funds, and other funds designated by the Commission for child care (excluding any amounts withheld for state-level responsibilities) will be allocated on the following basis:

(1) 50 percent will be based on the relative proportion of the total number of children under the age of five years old residing within the workforce area to the statewide total number of children under the age of five years old; [~~,~~] and

(2) 50 percent will be based on the relative proportion of the total number of people residing within the workforce area whose income does not exceed 100 percent of the poverty level to the statewide total number of people whose income does not exceed 100 percent of the poverty level.

(c) CCDF Matching Funds authorized under the Social Security Act, §418(a)(2), as amended, together with state general revenue

matching funds and estimated appropriated receipts of donated funds, will be allocated according to the relative proportion of children under the age of 13 years old residing within the workforce area to the statewide total number of children under the age of 13 years old.

(d) CCDF Discretionary Funds authorized under the Child Care and Development Block Grant Act of 1990 §658B, as amended, will be allocated according to the relative proportion of the total number of children under the age of 13 years old in families whose income does not exceed 150 percent of the poverty level residing within the workforce area to the statewide total number of children under the age of 13 years old in families whose income does not exceed 150 percent of the poverty level.

(e) The following provisions apply to the funds allocated in subsections (b) - (d) of this section:

(1) Sufficient funds must be used for direct child care services to ensure Commission-approved performance targets are met.

(2) Sufficient funds must be used to ensure children eligible for the first priority group described in §809.43 of this title are assured child care services.

[(2) Children eligible for Transitional and Choices child care shall be served on a priority basis to enable parents to participate in work, education, or training activities.]

(3) No more than 5 percent of the total expenditure of funds may be used for administrative expenditures as defined in federal regulations contained in 45 CFR Part 98 [C.F.R. §98.52], as may be amended unless the total expenditures for a workforce area are less than $5,000,000. If a workforce area has total expenditures of less than $5,000,000, then no more than $250,000 may be used for administrative expenditures.

(4) Pursuant to Texas Government Code, §2308.317, each Board shall use at least 2 percent of the funds allocated under this section for quality child care initiatives.

[(4) Each Board shall set the amount of the total expenditure of funds to be used for quality activities consistent with federal and state statutes and regulations.]

(5) The Board shall comply with any additional requirements adopted by the Commission or contained in the Board contract.

(6) Allocations of child care funds will include applications of hold harmless/stop gain procedures.

*§800.68. Adult Education and Literacy.*

(a) AEL funds available to the Commission to provide services under the federal Adult Education and Family Literacy Act (AEFLA), WIOA Title II, together with associated state general revenue matching funds and federal TANF funds--together with any state general revenue funds appropriated as TANF maintenance-of-effort--will be used by the Commission, as set forth in subsections (b) - (e) [(b) - (d)] of this section. Prior to any grant recipient receiving notice of an award, the Commission shall review and approve the award of grant funds to be issued under this program. The Commission shall give priority in continuing to award [awarding] funds through contracted grant renewal periods to entities that consistently satisfy annual enrollment targets and performance benchmarks established by the Commission that align to Texas Labor Code, §315.002(b-1) [requirements comparable to subsection (e) of this section].

(b) At least 82.5 percent of the AEFLA §231 federal funds constituting the total state award of AEFLA state grants--including amounts allotted to the eligible agency having a state plan, as provided by AEFLA §211(c)--will be awarded annually to entities with demonstrated effectiveness as determined through a statewide competitive procurement and [allocated by the Commission to the workforce areas. From the amount allotted to the eligible agency having a state plan, as provided by AEFLA §211(c), the Commission will allocate amounts to the workforce areas according to the established federal formula, as follows]:

(1) [100 percent] will be based on:

(A) the relative proportion of individuals residing within each county [workforce area] who are at least 18 years of age, do not have a secondary school diploma or its recognized equivalent, and are not enrolled in secondary school, during the most recent period for which statistics are available;

(B) an equal base amount; and

(C) the application of a hold-harmless/stop-gain procedure.

(2) No more than 10 percent of the annual renewal shall be determined on the basis of the achievement of performance benchmarks approved by the Commission.

(3) [(2)] No more than 5 percent of the funds (29 USC 3323(a)(2)) expended as part of this [workforce area] allocation shall be used for administrative costs, [as defined by AEFLA,] provided, however, that the Special Rule outlined in AEFLA §233(b) shall apply with effective justification, as appropriate.

[(3) No more than 10 percent of this allocation shall be available for expenditure within each workforce area on the basis of the achievement of performance benchmarks, as set forth in subsection (e) of this section.]

(c) At least 80 percent of the state general revenue matching funds associated with the allotment of federal funds to the eligible agency having a state plan, as provided by AEFLA §211(c), will be awarded to entities with demonstrated effectiveness as determined through a statewide competitive procurement, and [allocated by the Commission to the workforce areas according to the established federal formula, as follows]:

(1) [100 percent] will be based on:

(A) the relative proportion of individuals residing within each county [workforce area] who are at least 18 years of age, do not have a secondary school diploma or its recognized equivalent, and are not enrolled in secondary school, during the most recent period for which statistics are available;

(B) an equal base amount; and

(C) the application of a hold-harmless/stop-gain procedure.

(2) No more than 10 percent of the annual renewal shall be determined on the basis of the achievement of performance benchmarks approved by the Commission.

(3) [(2)] No more than 15 percent of the funds expended as part of this [workforce area] allocation shall be used for administrative costs, as defined by Commission policy.

[(3) No more than 10 percent of this allocation shall be available for expenditure within each workforce area on the basis of the achievement of performance benchmarks, as set forth in subsection (e) of this section.]

(d) At least 80 percent of federal TANF funds associated with the AEL program--together with any state general revenue funds appropriated as TANF maintenance-of-effort--will be awarded to enti-

ties with demonstrated effectiveness as determined through a statewide competitive procurement [allocated by the Commission to the workforce areas according to a need-based formula], as follows:

(1) 100 percent will be based on:

(A) the relative proportion of the unduplicated number of TANF adult recipients with educational attainment of less than a secondary diploma during the most recently completed calendar year;

(B) an equal base amount; and

(C) the application of a hold-harmless/stop-gain procedure.

(2) No more than 10 percent of the annual renewal shall be determined on the basis of the achievement of performance benchmarks approved by the Commission.

(3) [(2)] No more than 15 percent of the funds (45 CFR §263.13) expended as part of this [workforce area] allocation shall be used for administrative costs[, as defined by federal regulations and Commission policy].

[(3) No more than 10 percent of this allocation shall be available for expenditure within each workforce area on the basis of the achievement of performance benchmarks, as set forth in subsection (e) of this section.]

[(e) AEL performance accountability benchmarks shall be established to coincide with performance measures and reports, or other periods, as determined by the Commission. Levels of performance shall, at a minimum, be expressed in an objective, quantifiable, and measurable form, and show continuous improvement.]

(e) [(f)] Texas Labor Code, §315.007(c), requires that performance incentive funding criteria shall include measures that require [Performance accountability benchmarks shall]:

[(1) include measures for high school equivalency program or ability-to-benefit program enrollment and achievement, as outlined in paragraph (2) of this subsection. A postsecondary ability-to-benefit program, as outlined in paragraphs (2) and (3) of this subsection, is a postsecondary education or training program that:]

[(A) results in a recognized postsecondary credential; and]

[(B) enrolls AEL eligible participants who:]

*[(i)* do not have a high school diploma or recognized equivalency;]

*[(ii)* qualify for federal student financial aid eligibility under the federal Ability-to-Benefit provisions enacted in §484(d) of the Higher Education Act of 1965; and]

*[(iii)* demonstrate on an assessment instrument that the participant can pass college-level courses with some support;]

[(2) include measures that require:]

(1) [(A)] at least 25 percent of all participants served in the program year to be enrolled in a high school equivalency or postsecondary ability-to-benefit program; [and]

(2) [(B)] at least 70 percent of participants who were in a high school equivalency or postsecondary ability-to-benefit program during the program year and exited during the program year to achieve either a high school equivalency or a recognized postsecondary credential; and

(3) performance incentive funding amounts to be approved by the Commission each program year contingent upon the availability of funds. Only grant recipients who have successfully satisfied the criteria established in paragraphs (1) and (2) of this subsection will be awarded additional funding as approved by the Commission [for milestones toward meeting high school equivalency program or postsecondary ability-to-benefit program enrollment and achievement as outlined in paragraph (2) of this subsection].

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

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Les Trobman
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**40 TAC §800.69**

The repeal is proposed under the following statutory authority:

--Texas Labor Code, §301.0015(a)(6), which provides TWC with the authority to adopt, amend, or repeal such rules necessary for the effective administration of TWC services and activities.

--Texas Labor Code, §302.002(d), which requires TWC to adopt rules as necessary for the administration of workforce programs.

--Texas Labor Code, §315.002(d), which allows TWC to adopt rules for the administration of adult education and literacy (AEL) programs.

--Texas Labor Code, §315.007(a), which requires TWC to adopt rules establishing a performance-based process for awarding funds for the provision of AEL services.

The proposed repeal relates to Texas Labor Code, Chapters 302 and 315.

*§800.69. Integrated English Literacy and Civics Education Program.*

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

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## SUBCHAPTER F. INTERAGENCY MATTERS

**40 TAC §800.201, §800.205**

The rules are proposed under the following statutory authority:

Texas Labor Code, §301.0015(a)(6), which provides TWC with the authority to adopt, amend, or repeal such rules necessary for the effective administration of TWC services and activities.

The proposed rules relate to Texas Labor Code, Chapter 301.

*§800.201. [~~Title and~~] Purpose.*

The purpose of these rules is to provide notice to the public of any memorandum of understanding, contract, or other agreement between the Texas Workforce Commission and another Texas state agency that is adopted by rule as required by law or determined necessary by the Commission.

[~~(a) These rules may be cited as Interagency Matters.~~]

[~~(b) The purpose of these rules is to implement and interpret the provisions of the Texas Administrative Code, Chapter 40, Interagency Matters, and to provide notice to the public of the contents of the Memorandums of Understanding.~~]

*§800.205. Memorandum [~~Memoranda~~] of Understanding with a Governmental Entity Pursuant to Texas Government Code §497.0596(a)(4).*

(a) The Texas Workforce Commission [~~hereby~~] adopts by reference the terms of any memorandum of understanding (MOU) relating to identifying potentially affected employers under a proposed private sector prison industries program and providing such information to the appropriate governmental entity to meet its notification requirements. Information provided to a governmental entity shall comply with the requirements of Texas Labor Code §301.085 and 40 TAC, Chapter 815, Subchapter E, of this title.

(b) Any MOU [~~memorandum of understanding~~] under subsection (a) of this section shall stipulate that:

(1) only publicly available data sources shall be used;

(2) costs incurred for producing the data shall be reimbursed to the Agency; and

(3) the information provided by the Agency is solely for the limited purpose of allowing the governmental entity to meet its notice requirements under Texas Government Code, §497.0596, and is separate and apart from any certification described in Texas Government Code, §497.059.

(c) Copies of any MOU established under the terms of this section [~~the memoranda of understanding~~] are available at the Texas Workforce Commission, Office of General Counsel, 101 East 15th Street, [~~Room 614,~~] Austin, Texas 78778.

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

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**40 TAC §§800.202 - 800.204**

The repeals are proposed under the following statutory authority:

Texas Labor Code, §301.0015(a)(6), which provides TWC with the authority to adopt, amend, or repeal such rules necessary for the effective administration of TWC services and activities.

The proposed repeals relate to Texas Labor Code, Chapter 301.

*§800.202. Memorandum of Understanding with Texas Commission for the Deaf and Hard of Hearing.*

*§800.203. Memorandum of Understanding with Texas Education Agency.*

*§800.204. Memorandum of Understanding with Texas Department of Economic Development.*

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

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## SUBCHAPTER G. PETITION FOR ADOPTION OF RULES

**40 TAC §§800.251 - 800.255**

The rules are proposed under the following statutory authority:

--Texas Labor Code, §301.0015(a)(6), which provides TWC with the authority to adopt, amend, or repeal such rules necessary for the effective administration of TWC services and activities.

--Texas Government Code, §2001.021, which requires state agencies to adopt rules establishing procedures for a petition for rulemaking.

The proposed rules relate to Texas Government Code, Chapter 2001.

*§800.251. [~~Title and~~] Purpose.*

The purpose of this subchapter is to describe the Agency's process for addressing a petition for the adoption of a rule. This subchapter is required by Texas Government Code, §2001.021.

[~~(a) Title. These rules may be cited as the Petition for the Adoption of Rules.~~]

[~~(b) Purpose. The purpose of these rules is to implement the provisions of Texas Government Code, §2001.21 regarding agency procedure for addressing petitions for the adoption of rules.~~]

*§800.252. Definitions.*

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

[~~(1) Commission--The Texas Workforce Commission~~]

(1) [~~(2)~~] Interested person--An interested person is defined as:

(A) a resident of this state;

(B) a business entity located in this state;

(C) a governmental subdivision located in this state; or

(D) a public or private organization located in this state that is not a state agency.

(2) Petition--A petition for rulemaking is a request from an interested person to a state agency to create, amend, or repeal a rule.

*§800.253. Submission and Petition Requirements.*

Any interested person may petition the [~~Texas Workforce Commission (~~]Commission[~~)~~] for [~~requesting~~] the adoption of a rule. Petitioners must [~~should~~] submit petitions in writing to the Office of General Counsel [~~General Counsel of the Commission~~]. The petition may be in any legible form and [~~but~~] must contain at least the following information: [~~:~~]

(1) [~~Petitioner's Name and Address.~~] The petitioner's first and last [~~petitioners'~~] name and [~~,~~] complete mailing address; [~~, and signature should appear in the request.~~]

(2) An explanation of and justification for the proposed rule, including [~~Explanation and Justification. A petitioner should include an explanation and justification of the proposed rule. The explanation should include~~] a concise statement of the relevant background information necessary to understand the need for the proposed rule, the existing problem that the proposed rule is intended to correct, and the foreseeable effects of the requested rule change; [~~:~~]

(3) The full [~~Text. A petitioner should include the~~] text of the proposed rule, including, if applicable, all changes to any existing rule and a [~~reflecting added or deleted words. A~~] reference to the [~~any~~] existing rule including its [~~the~~] title, chapter, and section number; and [~~, if applicable, should appear on the request.~~]

(4) [~~Authority.~~] A statement of the statutory or other authority for making the proposed rule [~~taking the requested action should also appear on the request~~].

*§800.254. Review of Petition.*

Upon receipt of a [~~substantially complete~~] petition, as described in §800.253 of this subchapter, the general counsel will forward a copy of the petition to the appropriate division director for a response.

(1) Division Response. Within 20 calendar days of [~~after~~] receiving the petition from the general counsel, the division director shall respond in writing to the general counsel [~~General Counsel~~] recommending either denying the request or initiating the rulemaking process. The division director's response shall contain the reasons for the recommendation.

(2) General Counsel Recommendation. Within 20 calendar days of [~~after~~] receiving the division director's response, the general counsel shall submit to the Commission [~~commissioners~~] the petition, the division director's response, and a written recommendation by the general counsel specifying the reasons for the recommendation.

*§800.255. Commission Decision and Action.*

(a) Not later than the 60th day after receipt of a petition, the Commission [~~The Commissioners~~] shall issue the final decision [~~regarding the petition within 60 days after receipt of the petition from the petitioner~~] to either:

(1) deny the petition in writing, stating the reasons for the denial; or

(2) initiate rulemaking proceedings in accordance with Texas Government Code, Chapter 2001, [~~Administrative Procedure,~~] Subchapter B, Rulemaking[~~, as it may be amended~~].

(b) The Commission may modify any proposed rule to ensure that it conforms to the format of Commission [~~commission~~] rules, adequately addresses the perceived problem, and conforms to the filing requirements of the Texas Register.

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

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## SUBCHAPTER H. VENDOR PROTESTS

### 40 TAC §800.301

The rule is proposed under the following statutory authority:

--Texas Labor Code, §301.0015(a)(6), which provides TWC with the authority to adopt, amend, or repeal such rules necessary for the effective administration of TWC services and activities.

--Texas Government Code, §2155.076, which requires state agencies to adopt rules for resolving vendor protests relating to purchasing issues.

The proposed rule relates to Texas Government Code, Chapter 2155.

*§800.301. Vendor Protest Procedures.*

(a) Any Respondent who is allegedly aggrieved in connection with the Solicitation, evaluation, or award of a contract by the Agency may formally protest to the Agency's director of business operations.

(1) Such protests must be made in writing and timely received by the Agency's director of business operations.

(2) The protest must be received by the Agency's director of business operations within 10 working days after the Protestant knows, or should have known, of the occurrence of the action that is protested.

(3) The Protestant shall email the protest to twcvendor@twc.texas.gov or mail or deliver copies of the protest to: Director of Business Operations, 101 E. 15th Street, Room 316T, Austin, Texas 78778. The Protestant must also mail or deliver copies of the protest to Interested Parties known to the Protestant.

(b) A protest that is not filed timely shall not be considered unless the director of business operations determines that the protest raises issues that are significant to the Agency's procurement practices or procedures.

(c) The protest must be in writing and contain:

(1) the identifying name and number of the Solicitation being protested;

(2) identification of the specific statute or regulation that the Protestant alleges has been violated;

(3) a specific description of each act or omission alleged to have violated the statutory or regulatory provision identified above in paragraph (2) of this section;

(4) a precise statement of the relevant facts including:

(A) sufficient documentation to establish that the protest has been timely filed; and

(B) a description of the resulting adverse impact to the Protestant;

(5) a statement of the argument and authorities that the Protestant offers in support of the protest;

(6) an explanation of the action the Protestant is requesting from the Agency; and

(7) a statement confirming that copies of the protest have been mailed or delivered to any other Interested Party known to the Protestant.

(d) The protest must be signed by an authorized representative for the Protestant and the signature notarized.

(e) The Protestant may appeal determination of a protest to the Agency's deputy executive director.

(1) The appeal filed under these procedures must be in writing, addressed to the Agency's deputy executive director; and

(2) The protest must be received by the deputy executive director no later than 10 business days after the date of receipt of the written determination issued by the director of business operations.

(f) The Agency may move forward with a Solicitation or contract award without delay, in spite of a timely filed protest, to protect the best interests of the Agency or the state.

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

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## SUBCHAPTER I. ENHANCED CONTRACT MONITORING

**40 TAC §§800.350 - 800.352**

The rules are proposed under the following statutory authority:

--Texas Labor Code, §301.0015(a)(6), which provides TWC with the authority to adopt, amend, or repeal such rules necessary for the effective administration of TWC services and activities.

--Texas Government Code, §2261.253(c), which requires state agencies to adopt rules establishing a procedure to identify each contract that requires enhanced contract or performance monitoring.

The proposed rules relate to Texas Government Code, Chapter 2261.

*§800.350. Purpose and Scope.*

(a) Purpose. The purpose of this subchapter is to implement the requirements of Texas Government Code, §2261.253(c), requiring state agencies to establish, by rule, a procedure to identify each contract that requires enhanced contract or performance monitoring.

(b) Scope. Pursuant to Texas Government Code, §2261.253(d) and (g), this subchapter does not apply to:

(1) memoranda of understanding;

(2) interagency contracts;

(3) interlocal agreements; [~~or~~]

(4) contracts for which there is not a cost; [~~.~~]

(5) contracts posted on the major contracts database established under Texas Government Code, §322.020; or

(6) a contract of an institution of higher education that is valued at less than $15,000 and paid with money other than funds appropriated to the institution by this state.

*§800.351. Enhanced Contract Monitoring Policy.*

(a) The Agency shall identify which contracts for goods and services require enhanced monitoring by evaluating the risk factors, which include:

(1) the complexity of the goods and services to be provided;

(2) the contract amount;

(3) the length and scope of the project supported by the contract;

(4) whether the services are new or have changed significantly since the last procurement of the same services;

(5) whether the Agency has experience with the contractor;

(6) whether the project affects external stakeholders or is of particular interest to third parties;

(7) whether Agency data is accessed by the contractor; and

(8) any other factors the Agency determines in a particular circumstance will create a level of risk to the state or Agency such that enhanced monitoring is required.

(b) For contracts requiring enhanced monitoring, the contractor shall report to the assigned Agency contract manager on progress toward goals or performance measure achievements, and the status of deliverables, if any, and on any issues of which the contractor is aware that may create an impediment to meeting the project timeline or goals.

(c) Enhanced monitoring may also include site visits, additional meetings with contractor staff, and inspection of documentation required by the Agency to assess progress toward achievement of performance requirements.

(d) Projects deemed medium or high risk shall be monitored by the assigned contract manager and may involve additional team members such as an assigned project manager and staff from the Office of General Counsel or the Finance, Information Technology, or Fraud Deterrence and Compliance Monitoring divisions [~~Regulatory Integrity Divisions~~], if warranted.

*§800.352. Reporting on [~~of~~] Enhanced Contract Monitoring.*

(a) Pursuant to [~~the~~] Texas Government Code, §2261.253, the Agency shall submit information on each contract identified for enhanced contract monitoring to the Commission.

(b) The Agency's director of procurement and contract services [~~Procurement and Contract Services~~] (PCS [~~director~~]) shall immediately notify the Commission, executive director, deputy executive director, and the director of business operations of any serious issue or risk that is identified with respect to a contract identified for enhanced contract monitoring.

(c) The contract manager shall report on the status of all contracts subject to enhanced monitoring to the PCS director quarterly.

(d) If any serious issues or risks are identified about a contract subject to enhanced monitoring, the PCS director will immediately notify the director of business operations, [~~and~~] the executive director, and the Commission.

(e) Per Texas Government Code, §2261.254, Agency contracts that meet or exceed a total contract value of $1 million must be reported to the Commission. Contracts under this subsection are not automatically required to be included in enhanced monitoring reporting solely based on dollar value but must be reported on a quarterly basis at a minimum to the PCS director, the director of business operations, the executive director, the deputy executive director, and the Commission. This reporting must include details on the following three criteria:

(1) compliance with financial provisions and delivery schedules under the contract;

(2) corrective action plans required under the contract and the status of any active corrective action plan; and

(3) any liquidated damages assessed or collected under the contract.

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

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Les Trobman
General Counsel
Texas Workforce Commission
Earliest possible date of adoption: September 6, 2026
For further information, please call: (737) 301-9662

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## SUBCHAPTER L. WORKFORCE DIPLOMA PILOT PROGRAM

### 40 TAC §800.502

The rule is proposed under the following statutory authority:

--Texas Labor Code, §301.0015(a)(6), which provides TWC with the authority to adopt, amend, or repeal such rules necessary for the effective administration of TWC services and activities.

--Texas Labor Code, §302.002(d)

--Texas Labor Code, §317.008(a), which requires TWC to adopt rules establishing minimum performance standards for providers participating in the Workforce Diploma Pilot Program.

The proposed rule relates to Texas Labor Code, Chapters 302 and 317.

*§800.502. Request for Qualifications and List of Qualified Providers.*

(a) The Agency will identify qualified providers to participate in the Program through a statewide Request for Qualifications (RFQ) process conducted in accordance with state requirements. The Agency will publish an RFQ no later than October 15th of each year to identify Program providers.

(b) Potential providers will apply directly to the Agency using the RFQ process, and, once identified as a qualified provider, must meet all deadlines, requirements, and guidelines set forth in the published RFQ.

(c) The Agency will publish a list of qualified providers no later than November 15th of each year to participate in the Program the next calendar year.

(d) An approved provider maintains approval to participate in the program during a subsequent calendar year without reapplying to the Agency unless the provider is removed from the approved provider list as provided by Texas Labor Code, §317.008.

(e) [~~(d)~~] Each provider on the qualified provider list will be eligible to receive monthly reimbursements for this Program based on monthly invoices submitted to the Agency, as prescribed in the RFQ's terms.

(f) [~~(e)~~] Each year, the Agency shall review and update the list of qualified providers. Qualified providers that do not meet the minimum performance standards outlined in §800.503 of this subchapter will be placed on probation for the remainder of the calendar year. Failure to meet both minimum performance standards for two consecutive years will result in disqualification from the Program.

(g) [~~(f)~~] The Agency's determinations in the RFQ process will be based on the affirmation of the qualified provider to effectively perform all services and activities outlined in Texas Labor Code, Chapter 317.

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

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## CHAPTER 815. UNEMPLOYMENT INSURANCE

Texas Workforce Commission (TWC) proposes amendments to the following sections of Chapter 815, relating to Unemployment Insurance:

Subchapter A. General Provisions, §815.1 and §815.3

Subchapter B. Benefits, Claims and Appeals, §815.21 and §815.25

Subchapter C. Tax Provisions, §815.113 and §815.115

Subchapter E. Confidentiality and Disclosure of State Unemployment Compensation Information, §815.165

PART I. PURPOSE, BACKGROUND, AND AUTHORITY

The purpose of the proposed Chapter 815 rulemaking is to implement clarifying changes to definitions and terminology, specify requirements for address notifications and the delivery of TWC notices, establish consistent procedures for Commission hearings, provide clearer guidelines for approved training, and update references to federal law and regulation.

PART II. EXPLANATION OF INDIVIDUAL PROVISIONS

(Note: Minor editorial changes are made that do not change the meaning of the rules and, therefore, are not discussed in the Explanation of Individual Provisions.)

SUBCHAPTER A. GENERAL PROVISIONS

TWC proposes the following amendments to Subchapter A:

§815.1. Definitions

Section 815.1 is amended to relocate the definition of "agent state" from §815.21 to this section, so that it is with the other definitions that apply to more than one section. The definition of "Board" is amended to assign it the same meaning as defined in §800.2 of this title. A definition for "mailing date" is added pertaining to correspondence sent by TWC.

§815.3. Addresses

Section 815.3 is amended to further specify which individuals under employment must promptly notify TWC of any change of address and to detail which recorded claimant or employer address should be used when delivering a notice of initial claim versus other TWC notices.

SUBCHAPTER B. BENEFITS, CLAIMS, AND APPEALS

TWC proposes the following amendments to Subchapter B:

§815.21. Interstate Claims

Section 815.21 is amended to remove the definition of "agent state" and relocate it under §815.1 with the other definitions for Chapter 815.

§815.25. Approval of Training

Section 815.25 is amended to update terminology and clarify which types of training shall be considered approved by TWC.

SUBCHAPTER C. TAX PROVISIONS

TWC proposes the following amendments to Subchapter C:

§815.113. Commission Hearings Involving Coverage and Contributions or Reimbursements

Section 815.113 is amended to establish consistent procedures, including: a reopening process for employers that miss a hearing, clearer guidelines for granting in-person hearings, criteria for granting a motion for reconsideration without further hearing, provisions for a rehearing while affirming a prior decision, and a distinction between motions for reconsideration and rehearing.

§815.115. Contribution and Wage Reports Covering Seamen and Seamen's Wages Paid under Shipping Articles

Section 815.115 is amended to update a reference to federal law.

SUBCHAPTER E. CONFIDENTIALITY AND DISCLOSURE OF STATE UNEMPLOYMENT COMPENSATION INFORMATION

TWC proposes the following amendments to Subchapter E:

§815.165. Exceptions to Confidentiality Requirements

Section 815.165 is amended to update a reference to federal regulation.

PART III. IMPACT STATEMENTS

Chris Nelson, Chief Financial Officer, has determined that for each year of the first five years the proposed rules will be in effect, the following statements will apply:

There are no additional estimated costs to the state and to local governments expected as a result of enforcing or administering the proposed rules.

There are no estimated cost reductions to the state and to local governments as a result of enforcing or administering the proposed rules.

There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the proposed rules.

There are no foreseeable implications relating to costs or revenue of the state or local governments as a result of enforcing or administering the proposed rules.

There are no anticipated economic costs to individuals required to comply with the proposed rules.

There is no anticipated adverse economic impact on small businesses, microbusinesses, or rural communities as a result of enforcing or administering the proposed rules.

Based on the analyses required by Texas Government Code, §2001.024, TWC has determined that the requirement to repeal or amend a rule, as required by Texas Government Code, §2001.0045, does not apply to this rulemaking.

Takings Impact Assessment

Under Texas Government Code, §2007.002(5), "taking" means a governmental action that affects private real property, in whole or in part or temporarily or permanently, in a manner that requires the governmental entity to compensate the private real property owner as provided by the Fifth and Fourteenth Amendments to the US Constitution or the Texas Constitution, §17 or §19, Article I, or restricts or limits the owner's right to the property that would otherwise exist in the absence of the governmental action, and is the producing cause of a reduction of at least 25 percent in the market value of the affected private real property, determined by comparing the market value of the property as if the governmental action is not in effect and the market value of the property determined as if the governmental action is in effect. TWC completed a Takings Impact Assessment for the proposed rulemaking under Texas Government Code, §2007.043. The primary purpose of this proposed rulemaking, as discussed elsewhere in this preamble, is to clarify definitions and terminology, specify requirements for address notifications and the delivery of TWC notices, establish consistent procedures for Commission hearings, provide clearer guidelines for approved training, and update references to federal law and regulation.

The proposed rulemaking action will not create any additional burden on private real property or affect private real property in a manner that would require compensation to private real property owners under the US Constitution or the Texas Constitution. The proposal also will not affect private real property in a manner that restricts or limits an owner's right to the property that would otherwise exist in the absence of the governmental action. Therefore, the proposed rulemaking will not cause a taking under Texas Government Code, Chapter 2007.

Government Growth Impact Statement

TWC has determined that during the first five years the proposed rules will be in effect, they:

--will not create or eliminate a government program;

--will not require the creation or elimination of employee positions;

--will not require an increase or decrease in future legislative appropriations to TWC;

--will not require an increase or decrease in fees paid to TWC;

--will not create a new regulation;

--will not expand, limit, or eliminate an existing regulation;

--will not change the number of individuals subject to the rules; and

--will not positively or adversely affect the state's economy.

Economic Impact Statement and Regulatory Flexibility Analysis

TWC has determined that the proposed rules will not have an adverse economic impact on small businesses or rural communities, as the proposed rules place no requirements on small businesses or rural communities.

Mariana Vega, Director, Labor Market Information, has determined that there is not a significant negative impact upon employment conditions in the state as a result of the proposed rules.

Lowell Keig, Director, Unemployment Insurance Division, has determined that for each year of the first five years the proposed rules are in effect, the public benefit anticipated as a result of enforcing the proposed rules will be to provide clarity and improve understanding for those who must comply with the rules.

PART IV. REQUEST FOR IMPACT INFORMATION

TWC requests, from any person required to comply with the proposed rule or any other interested person, information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis. Please submit the requested information to TWCPolicyComments@twc.texas.gov no later than September 7, 2026.

PART V. PUBLIC COMMENTS

Comments on the proposed rules may be submitted to TWCPolicyComments@twc.texas.gov and must be received no later than September 7, 2026.

## SUBCHAPTER A. GENERAL PROVISIONS

**40 TAC §815.1, §815.3**

PART VI. STATUTORY AUTHORITY

The rules are proposed under Texas Labor Code, §301.0015(a)(6), which provides TWC with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of TWC services and activities.

The proposed rules relate to Texas Labor Code, Title 4, Subtitle A, The Texas Unemployment Compensation Act.

*§815.1. Definitions.*

The following words and terms, when used in this chapter, shall have the following meanings, unless the statute or context in which the word or phrase is used clearly indicates otherwise.

(1) Act--The Texas Unemployment Compensation Act, Texas Labor Code Annotated, Title 4, Subtitle A, as amended.

(2) Additional claim--A notice of new unemployment filed at the beginning of a second or subsequent series of claims within a benefit year or within a period of eligibility when a break of one week or more has occurred in the claim series with intervening employment. The employer named on an additional claim will have 14 days from the date notice of the claim is mailed to reply to the notice. The additional claim reopens a claim series and is not a payable claim since it is not a claim for seven days of compensable unemployment.

(3) Adequate notification--A notification of adverse facts, including any subsequent notification, affecting a claim for benefits, as provided in the Act, Chapter 208.

(A) Notification to the Commission is adequate as long as the employer or its agent gives a reason, supported by facts, directly related to the allegation raised regarding the claimant's right to benefits.

(B) The employer or its agent may demonstrate good cause for failing to provide adequate notice. Good cause is established solely by showing that the employer or its agent was prevented from providing adequate notification due to compelling circumstances beyond the control of the employer or its agent.

(C) Examples of adequate notification of adverse facts include, but are not limited to, the following:

*(i)* The claimant was discharged for misconduct connected with his work because he was fighting on the job in violation of written company policy.

*(ii)* The claimant abandoned her job when she failed to contact her supervisor in violation of written company policy and previous warnings.

(D) A notification is not adequate if it provides only a general conclusion without substantiating facts. A general statement that a worker has been discharged for misconduct connected with the work is inadequate. The allegation may be supported by a summary of the events, which may include facts documenting the specific reason for the worker's discharge, such as, but not limited to:

*(i)* policies or procedures;

*(ii)* warnings;

*(iii)* performance reviews;

*(iv)* attendance records;

*(v)* complaints; and

*(vi)* witness statements.

(4) Agency--The unit of state government that is presided over by the Commission and under the direction of the executive director, which operates the integrated workforce development system and administers the unemployment compensation insurance program in this state as established under Texas Labor Code, Chapter 301. It may also be referred to as the Texas Workforce Commission.

(5) Agent state--Any state from which or through which an individual files a claim for benefits from another state.

(6) [~~(5)~~] Appeal--A submission by a party requesting the Agency or the Commission to review a determination or decision that is adverse to that party. The determination or decision must be appealable and pertain to entitlement to unemployment benefits; chargeback as provided in the Act, Chapter 204, Chapter 208, and Chapter 212; fraud as provided in the Act, Chapter 214; tax coverage or contributions or reimbursements. This definition does not grant rights to a party.

(7) [~~(6)~~] Base period with respect to an individual--The first four consecutive completed calendar quarters within the last five completed calendar quarters immediately preceding the first day of the individual's benefit year, or any other alternate base period as allowed by the Act.

(8) [~~(7)~~] Benefit period--The period of seven consecutive calendar days, ending at midnight on Saturday, with respect to which entitlement to benefits is claimed, measured, computed, or determined.

(9) [~~(8)~~] Benefit wage credits--Wages used to determine an individual's monetary eligibility for benefits. Benefit wage credits consist of those wages an individual received for employment from an employer during the individual's base period as well as any wages ordered to be paid to an individual by a final Commission order, pursuant to its

authority under Texas Labor Code, Chapter 61. Benefit wage credits awarded by a final Commission order that were due to be paid to the individual by an employer during the individual's base period shall be credited to the quarter in which the wages were originally due to be paid.

(10) [~~(9)~~] Board--A Local Workforce Development Board. In this chapter, "Board" has the same meaning as defined in §800.2 of this title. [~~created pursuant to Texas Government Code §2308.253 and certified by the Governor pursuant to Texas Government Code §2308.261. This includes a Board when functioning as the Local Workforce Investment Board as described in the Workforce Investment Act §117 (29 U.S.C.A. §2832), including those functions required of a Youth Council, as provided for under the Workforce Investment Act §117(i) (also referred to as an LWDB).~~]

(11) [~~(10)~~] Commission--The three-member body of governance composed of Governor-appointed members in which there is one representative of labor, one representative of employers, and one representative of the public as established in Texas Labor Code, §301.002, which includes the three-member governing body acting under the Act, Chapter 212, Subchapter D, and in Agency hearings involving unemployment insurance issues regarding tax coverage, contributions, or reimbursements.

(12) [~~(11)~~] Day--A calendar day.

(13) [~~(12)~~] Landman--An individual who is qualified to do field work in the purchasing of right-of-way and leases of mineral interests, record searches, and related real property title determinations, and who is primarily engaged in performing the field work.

(14) Mailing date (or "date of mailing")--For correspondence sent by the Agency to a party, "mailing date" means the date on which the Agency:

(A) deposits correspondence with the United States Postal Service; or

(B) transmits an electronic correspondence to an electronic mail address designated by the party or an Agency electronic inbox for parties registered to receive electronic correspondence.

(15) [~~(13)~~] Person--May include a corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, and any other legal entity.

(16) [~~(14)~~] Places accessible--Locations in which an employer shall provide required notices to an employee as provided in the Act, Chapter 208. Required notices include the following [~~This includes~~]:

(A) notices [~~Notices~~] providing general information about filing a claim for unemployment benefits shall be displayed in a manner reasonably calculated to be encountered by all employees; and

(B) upon [~~Upon~~] separation from employment, an employer shall provide an employee individual notice of general information about filing a claim for unemployment benefits as set out in the printed notice referenced in §208.001(b) of the Act. As the notice is provided directly to the individual, the employer has significant flexibility in how this information may be made known. Such information may be provided:

*(i)* in a paper format, including by mail or with separation paperwork;

*(ii)* by email;

*(iii)* by text; or

*(iv)* by other means reasonably calculated to ensure the individual receives the required notification.

(17) [~~(15)~~] Reopened claim--The first claim filed following a break in claim series during a benefit year which was caused by other than intervening employment, that is [~~i.e.,~~] illness, disqualification, unavailability, or failure to report for any reason other than job attachment. The reopened claim reopens a claim series and is not a payable claim since it is not a claim for seven days of compensable unemployment.

(18) [~~(16)~~] Week--A period of seven consecutive calendar days ending at midnight on Saturday.

*§815.3. Addresses.*

(a) In this chapter, the following shall promptly notify the Agency of any change of address and provide the correct address to the Agency:

(1) Each [~~each~~] employing unit, which has or had individuals in "employment," as [~~so~~] defined in the Act; and [~~shall notify the Agency of its correct address and of any change in its correct address, and each employing unit shall promptly notify the Agency of any change of address.~~]

(2) Each individual who is a claimant for benefits, who is liable to the Agency for an overpayment pursuant to the Act, Chapter 212 or 214, [~~or~~] who is registered for work at an Agency office[~~,~~] or public employment office, including a Texas Workforce Center, or who otherwise has pending business before the Agency [~~workforce center shall promptly notify the Agency of any change of address~~].

(b) In this chapter, a group account, as referred to in §205.021 of the Act, [~~§205.021,~~] shall be treated as a single employing unit for the purposes of this section and the Agency shall use the address of the group representative as the official address of the group. The group representative shall notify the Agency of the correct address and shall promptly notify the Agency of any change of address.

(c) In all transactions in which notice is required by the Act or this chapter, the Agency shall send the notice to [~~notify~~] the parties to [~~at~~] the last known physical or electronic address as reflected in the Agency records. However, when the Agency delivers [~~mails~~] a notice of an initial claim to the employer via the United States Postal Service, the Agency shall use the physical address of the employer for whom the claimant last worked, or if the employer has more than one branch or division at different locations, the location of the branch or division at [~~for~~] which the claimant last worked, or a mailing address designated by the employer in §208.003 of the Act[~~, §208.003~~].

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

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## SUBCHAPTER B. BENEFITS, CLAIMS, AND APPEALS

**40 TAC §815.21, §815.25**

The rules are proposed under Texas Labor Code, §301.0015(a)(6), which provides TWC with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of TWC services and activities.

The proposed rules relate to Texas Labor Code, Title 4, Subtitle A, The Texas Unemployment Compensation Act.

*§815.21. Interstate Claims.*

This section shall govern the Agency in its administrative cooperation with other states adopting a similar rule or regulation for the payment of benefits to interstate claimants, any provision of any other rule to the contrary notwithstanding.

(1) Definitions. As used in this section, the following words and terms shall have the following meanings, unless the context clearly indicates otherwise.

~~[(A) Agent state--Any state from which or through which an individual files a claim for benefits from another state.]~~

(A) [~~(B)~~] Benefits--The compensation payable to an individual with respect to the individual's unemployment, under the unemployment insurance law of any state.

(B) [~~(C)~~] Interstate benefit payment plan--The plan approved by the Interstate Conference of Employment Security Agencies under which benefits shall be payable to unemployed individuals absent from the state (or states) in which benefit credits have been accumulated.

(C) [~~(D)~~] Interstate claimant--An individual who claims benefits under the unemployment insurance law of one or more liable states through the facilities of an agent state, or directly with the liable state. The term "interstate claimant" shall not include any individual who customarily commutes from a residence in an agent state to work in a liable state unless the Agency finds that this exclusion would create undue hardship on the claimants in specified areas.

(D) [~~(E)~~] Liable state--Any state against which an individual files, through another state, a claim for benefits.

(E) [~~(F)~~] State--Includes the District of Columbia, Puerto Rico, and the Virgin Islands.

(F) [~~(G)~~] Week of unemployment--Includes any week of unemployment as defined in the law of the liable state from which benefits with respect to the week are claimed.

(2) Registration for work.

(A) The agent state shall register for work each claimant who files through the agent state, or upon notification of a claim filed directly with the liable state, as required by the laws [~~law~~], regulations, and procedures of the agent state. The registration shall be accepted as meeting the registration requirements of the liable state.

(B) Each agent state shall duly report[~~,~~] to the liable state in question, each interstate claimant who fails to meet the registration/re-employment assistance reporting requirements of the agent state.

(3) Benefit rights of interstate claimants.

(A) If a claimant files a claim against any state, and it is determined by the state that the claimant has available benefit credits in the state, then claims shall be filed only against the state as long as benefit credits are available in that state. Thereafter, the claimant may file claims against any other state in which there are available benefit credits.

(B) For the purposes of this section, benefit credits shall be deemed to be unavailable whenever benefits have been exhausted, terminated, or postponed for an indefinite period or for the entire period in which benefits would otherwise be payable, or whenever benefits are affected by the applications of a seasonal restriction.

(4) Claims for benefits.

(A) Claims for benefits or waiting-period credit filed by an interstate claimant directly with the liable state shall be filed in accordance with the liable state's procedures. Claims shall be filed in accordance with the type of week in use in the agent state. Any adjustments required to fit the type of week used by the liable state shall be made by the liable state on the basis of consecutive claims filed.

(B) Claims shall be filed in accordance with the agent state's regulations for intrastate claims in the local employment offices, affiliated sites, one-stop centers, or at an itinerant service point or by the United States Postal Service [~~mail~~], common carrier, or by other means, including telephonic or electronic means, as the Agency may approve.

*(i)* With respect to claims for weeks of unemployment in which an individual was not working for the individual's regular employer, the liable state shall, under circumstances that [~~which~~] it considers good cause, accept a continued claim filed up to one week or one reporting period late. If a claimant files more than one reporting period late, an initial interstate claim shall be used to begin a claim series, and no continued claim for a past period shall be accepted.

*(ii)* With respect to weeks of unemployment during which an individual is attached to the individual's regular employer, the liable state shall accept any claim that [~~which~~] is filed within the time limit applicable to the claims under the law of the agent state.

(5) Determination of claims.

(A) The agent state shall, in connection with each claim filed by an interstate claimant, ascertain and report to the liable state in question the facts relating to the claimant's availability for work and eligibility for benefits as are readily determinable in and by the agent state.

(B) The agent state's responsibility and authority in connection with the determination of interstate claims shall be limited to investigation and reporting of relevant facts and the reporting of relevant facts pertaining to each claimant's failure to register for work or report for re-employment assistance as required by the agent state. The agent state shall not refuse to take an interstate claim.

(6) Appellate procedure.

(A) The agent state shall afford all reasonable cooperation in the taking of evidence and the holding of hearings in connection with appealed interstate benefit claims.

(B) With respect to the time limits imposed by the law of a liable state other than Texas, upon the filing of an appeal in connection with a disputed claim, whether or not the appeal is timely shall be determined by the liable state by reference to that state's laws [~~law~~], regulations, or policies and practices. In interstate appeals in which Texas is the liable state, whether or not the appeal is timely shall be determined by reference to relevant provisions of the [~~Texas Unemployment Compensation~~] Act and current Agency policies and precedent decisions applicable to intrastate appeals.

(C) The liable state shall conduct hearings in connection with appealed interstate benefit claims. The liable state may contact the agent state for assistance in special circumstances.

(7) Canadian claims. This section shall apply in all its provisions to claims taken in and for Canada.

(8) Notification of interstate claim. The liable state shall notify the agent state of each initial claim, reopened file, claim transferred to interstate status, and each weekly [~~week~~] claim filed from the agent state using uniform procedures and record format pursuant to the Interstate Benefit Payment Plan.

*§815.25. Approval of Training.*

(a) The Agency shall approve training[~~,~~] if:

(1) there is no longer substantial and recurring demand for the individual's skills, [~~and~~] the lack of employment opportunities in occupations requiring those skills is expected to continue for an extended period of time, and the individual has no other skill for which there is an expectation of reemployment in a reasonable period; and

(2) the training will enhance the individual's ability to secure stable employment and earning potential in an occupation for which there is substantial and recurring demand.

(b) An individual shall be in approved training if the Agency approves the training for the individual and the individual is attending the training as shown by the following:

(1) The individual and/or the training facility agrees to furnish evidence upon the Agency's request [~~request of the Agency~~] that the individual is regularly attending the training course and is satisfactorily performing assignments as a trainee; and

(2) The individual affirms at the time of the claim certification that the individual has attended the training course during the given training week or had good cause for the individual's failure to do so.

(c) Training provided by or [~~The funding source of the training shall not affect the approval of the training except that training~~] under the auspices of the Workforce Innovation and Opportunity Act, TWC's Vocational Rehabilitation Services Program, [~~Workforce Investment Act; the Texas Department of Assistive and Rehabilitative Services; the Texas Department of Aging and Disability Services;~~] federal or state veterans' services programs, or any other program specifically designated by the Agency, shall be considered approved for the purposes of §207.022 of the Act [~~§207.022~~].

(d) The Agency shall not deny approval of training solely because the individual resides outside of the state. Agency staff may rely upon the recommendation of the agent state regarding whether the training is approved.

(e) The Commission shall develop procedural guidelines for use by Agency staff and the Boards that are consistent with the requirements of this section. Procedures may include, but are not limited to:

(1) using a statewide or Board-level demand or targeted occupations list to determine whether there is substantial and recurring demand for an occupation or industry; and

(2) using the Agency's job-matching system to assess the individual's existing skills when determining the individual's likelihood to return to an occupation or industry requiring those skills.

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

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## SUBCHAPTER C. TAX PROVISIONS

### 40 TAC §815.113, §815.115

The rules are proposed under Texas Labor Code, §301.0015(a)(6), which provides TWC with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of TWC services and activities.

The proposed rules relate to Texas Labor Code, Title 4, Subtitle A, The Texas Unemployment Compensation Act.

*§815.113. Commission Hearings Involving Coverage and Contributions or Reimbursements.*

(a) In all situations not specifically provided for in the Act or in the rules of the Agency, a hearing may, at the discretion of the Commission, be afforded an employing unit upon its written request, in any case involving tax liability or any question relating to contributions or reimbursements. Hearings under this section shall continue to be termed Rule 13 Hearings. The written request for hearing may be filed by hand delivery, the United States Postal Service [~~mail~~], common carrier, facsimile (fax) transmission, or other method approved by the Agency in writing, at a local tax office or at the Texas Workforce Commission, 101 East 15th Street, Austin, Texas 78778-0001.

(b) The Commission may on its own motion set a hearing to secure the facts to establish the status of any individual or employing unit under any section of the Act.

(c) The Commission may designate a representative to preside over the hearing. Hearings shall be conducted by telephone conference call unless the supervisor of the hearing officers or the supervisor's designee determines that an in-person or video-conference hearing is necessary, most commonly to accommodate a disability [~~hearing is necessary~~]. The hearings will be scheduled at the time and [~~and, if an in-person hearing, held at a~~] place and in the manner designated by the supervisor [~~of the hearings officers~~] or the supervisor's designee in accordance with the applicable provisions [~~paragraphs (1) - (3)~~] of this subsection and [~~the applicable provisions in~~] this chapter.

(1) Written notice of the date and time of the hearings shall be given to the parties, and the location if it is an in-person hearing, at least 10 days before the date of the hearing; but if a setting at an earlier date is requested by an individual or employing unit, the supervisor of the hearings officers or the supervisor's designee may at the supervisor's discretion grant that request[~~,~~] if granting [~~the granting of~~] the request will not prejudice the rights of any other party to the proceedings, including the Agency itself. The notice shall be mailed to the parties at their last-known addresses.

(2) In these proceedings before a hearings officer, all parties shall be given an opportunity for full, fair, and impartial hearing. The hearings shall be conducted in the manner deemed most suitable to ascertain the facts and to determine the rights of the parties. All testimony taken shall be under oath and subject to the right of cross-examination by any adverse party, and it shall be recorded. When necessary, the hearing officer may order the taking of depositions. The submission of written briefs, affidavits, and other written memoranda may be required.

(3) A witness, whose attendance at a hearing is required, may be allowed a fee and mileage on the same basis and to the same extent as is provided for witnesses under §815.18 of this chapter [(~~relating to General Rules for Both Appeal Stages~~)].

(4) If a party, including the Agency, fails to appear for a hearing, the hearing officer may hear and record the evidence of the party present and the witnesses, if any, and the Commission shall proceed to decide the appeal on the basis of the record unless there appears to be a good reason for continuing the hearing. A copy of the decision shall be mailed to the parties of interest with an explanation of the manner and time in which a request for reopening may be submitted.

(5) A party who fails to appear at a hearing may, within 30 days from the date the decision is mailed, petition for a new hearing in the manner set out in subsection (a) of this section. The petition shall identify the party requesting the reopening, the applicable decision of the Commission, the date of the petition, and explain the reason for the failure to appear. The provisions of §815.32 of this chapter shall determine on what date the petition was filed. The petition shall be granted if it appears that the petitioner has shown good cause for the petitioner's failure to appear at the hearing. A petition may be denied on the basis of the petition alone and without holding a hearing.

(6) For purposes of this section, the term "appear" shall mean participation by a party or a party's representative in the proceeding. Actions that may be considered as participation include offering testimony, examining witnesses, or presenting oral arguments. If the hearing is a telephone or video-conference hearing, a party or a party's representative shall appear at a hearing by calling on the date and at the time of the hearing and participating in the hearing proceedings. If the hearing is an in-person hearing, a party or a party's representative shall appear by being at the location of the hearing on the date and at the time scheduled for the hearing and participating in the hearing proceedings. Mere submission of written documents, whether sworn or unsworn, or observation of the proceedings shall not constitute an appearance.

(d) The Commission, following each hearing, shall issue a decision, which shall resolve the questions involving tax liability or any question relating to contributions or reimbursements that [~~which~~] arose at the hearing. Copies of the Commission's written decisions [~~of the Commission~~] shall be provided to [~~furnished~~] the parties to the hearings.

(e) A decision of the Commission shall become final 30 days after the date of mailing unless, within the 30-day period, a party files a petition to reopen the hearing, the proceeding is [~~either~~] reopened by a Commission order, or [~~by~~] a party to the proceeding files [~~filing~~] a written motion for reconsideration in accordance with the provisions of §815.17(f) of this chapter [(~~relating to General Rules for Both Appeal Stages~~)]. A party filing a motion for reconsideration must file the motion in writing at the address stated in the Commission's decision. The Commission may deny the motion without further hearing. If the Commission determines that additional evidence or argument is necessary, then the Commission may order a rehearing and schedule the rehearing in accordance with subsection (c) of this section. [~~The motion for reconsideration is sent to the address listed in the decision.~~] A decision is not binding on a person who was not a party to a proceeding conducted under this section.

*§815.115. Contribution and Wage Reports Covering Seamen and Seamen's Wages Paid under Shipping Articles.*

This section shall govern contribution and wage reports covering seamen and seamen's wages paid under shipping articles.

(1) Pay period. For the purpose of this section, the term "pay period" established by "shipping articles" means the period of the voyage or engagement of the crew under "articles of agreement" pursuant to 46 USCA §10302 [~~46 U.S.C.A. §564~~].

(2) Current reports.

(A) Contribution reports and wage reports with respect to wages, including advances, allotments, and payment in kind, such as board and lodging, earned in any pay period established by "shipping articles" shall be submitted as of the calendar quarter in which any of the wages in cash were actually paid or any of the wages in kind were furnished.

(B) Reports on wages falling within the purview of this section need not be filed prior to the time reports regarding wages paid at the termination of the period shall be filed. However, separate reports shall in that event be filed for each calendar quarter involved during which wages in cash were paid and wages in kind were furnished.

(3) Special reports. The employer shall, upon request of the Agency, promptly furnish a statement of the wages of a seaman, whenever the statement is necessary in order to determine a seaman's eligibility for and rate of benefits. The statement shall be prepared and submitted in the manner the Agency may prescribe in each case.

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

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Les Trobman
General Counsel
Texas Workforce Commission
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For further information, please call: (737) 301-9662

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## 40 TAC §815.107

The Texas Workforce Commission (TWC) proposes amendments to the following section of Chapter 815, relating to Unemployment Insurance:

Subchapter C. Tax Provisions, §815.107

PART I. PURPOSE, BACKGROUND, AND AUTHORITY

The purpose of the proposed amendments to Chapter 815 is to implement provisions of Senate Bill (SB) 1786, House Bill (HB) 2, and HB 120, enacted by the 89th Texas Legislature, Regular Session, 2025, which enhance TWC's ability to collect, analyze, and utilize workforce data.

The statutory changes amended Texas Labor Code, §204.0025 and added Texas Labor Code, §302.0205. Amended Texas Labor Code, §204.0025 directs TWC to work collaboratively with employers to enhance the reporting of employment and earnings data as part of employers' routine wage filings. The amended §204.0025 also specifies that enhanced wage filings must at a minimum include information related to wage, industry, occupational field, full-time and part-time status, county of primary employment, and remote work status.

New Texas Labor Code, §302.0205 requires TWC to produce a biennial Regional Labor Demand Assessment using the best available data to evaluate workforce needs across the state. Additionally, amended Texas Labor Code, §204.0025 permits TWC to collect other important employment information necessary to conduct the biennial Labor Demand Assessment.

The proposed rule amendments modernize workforce data collection by clarifying employer reporting requirements and ensuring TWC has the information necessary to fulfill its statutory responsibilities. Enhanced data collection will enable TWC to produce more accurate and timely labor market information to support economic development, strengthen education and workforce planning, and inform state and local policymaking. Additionally, TWC will leverage this additional data to combat fraud, providing further benefit to employers and taxpayers statewide.

The amendments provide TWC the flexibility to request additional information, as necessary, through existing reporting mechanisms, while minimizing administrative burden on employers by incorporating such requests into established quarterly wage reporting processes. TWC remains committed to engaging employers and stakeholders to support implementation and address any challenges associated with these enhanced reporting requirements.

Coordination Activities

TWC, as directed by Texas Labor Code, §204.0025, actively engaged representatives of employer organizations to ensure the implementation of enhanced wage record reporting is both practical for businesses and effective for data collection. To achieve this engagement, TWC collaborated with national employer groups for this dialogue, including surveying their members on technical feasibility. Additionally, TWC collaborated with industry groups and local chambers of commerce to host stakeholder feedback sessions, ensuring the voices of small and large employers were heard.

PART II. EXPLANATION OF INDIVIDUAL PROVISIONS

(Note: Minor editorial changes are made that do not change the meaning of the rule and, therefore, are not discussed in the Explanation of Individual Provisions.)

SUBCHAPTER C. TAX PROVISIONS

TWC proposes the following amendments to Subchapter C:

§815.107. Reports Required and Their Due Dates

Section 815.107(d) is amended to add new paragraphs (5) and (6) to the list of information that employers are directed to provide in their Quarterly Reports from Taxed Employers. New §815.107(d)(6) requires employers to provide any information requested to comply with the Additional Workforce Data Reporting necessary to conduct the Labor Demand Assessment under Texas Labor Code, §302.0205.

Additionally, §815.107 is amended to add new (e), which states that failure to provide the information requested pursuant to Texas Labor Code, §204.0025 may be considered as one of several factors in TWC's risk-based approach to employer compliance reviews.

PART III. IMPACT STATEMENTS

Chris Nelson, Chief Financial Officer, has determined that for each year of the first five years the proposed rule will be in effect, the following statements will apply:

There are no additional estimated costs to the state and to local governments expected as a result of enforcing or administering the proposed rule.

There are no estimated cost reductions to the state and to local governments as a result of enforcing or administering the proposed rule.

There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rule.

There are no foreseeable implications relating to costs or revenue of the state or local governments as a result of enforcing or administering the proposed rule.

There are no significant anticipated economic costs to individuals required to comply with the proposed rule. While there could be minimal initial costs for employers to comply with the proposed rule, primarily associated with incorporating additional data elements into existing reporting processes, these costs are expected to decrease or phase out as employers integrate the requirements into routine quarterly wage reporting.

There is no anticipated adverse economic impact on small businesses, microbusinesses, or rural communities as a result of enforcing or administering the proposed rule.

Based on the analyses required by Texas Government Code, §2001.024, TWC has determined that the requirement to repeal or amend a rule, as required by Texas Government Code, §2001.0045, does not apply to this rulemaking.

Takings Impact Assessment

Under Texas Government Code, §2007.002(5), "taking" means a governmental action that affects private real property, in whole or in part or temporarily or permanently, in a manner that requires the governmental entity to compensate the private real property owner as provided by the Fifth and Fourteenth Amendments to the US Constitution or the Texas Constitution, §17 or §19, Article I, or restricts or limits the owner's right to the property that would otherwise exist in the absence of the governmental action, and is the producing cause of a reduction of at least 25 percent in the market value of the affected private real property, determined by comparing the market value of the property as if the governmental action is not in effect and the market value of the property determined as if the governmental action is in effect. TWC completed a Takings Impact Assessment for the proposed rulemaking action under Texas Government Code, §2007.043. The primary purpose of this proposed rulemaking is to implement statutory requirements for enhancing the collection of employment and workforce data through employer wage reporting to support workforce, education, and economic planning, and ensure program integrity.

The proposed rulemaking action will not create any additional burden on private real property or affect private real property in a manner that would require compensation to private real property owners under the US Constitution or the Texas Constitution. The proposal also will not affect private real property in a manner that restricts or limits an owner's right to the property that would otherwise exist in the absence of the governmental action. Therefore, the proposed rulemaking will not cause a taking under Texas Government Code, Chapter 2007.

Government Growth Impact Statement

TWC has determined that during the first five years the proposed rule will be in effect, it:

--will not create or eliminate a government program;

--will not require the creation or elimination of employee positions;

--will not require an increase or decrease in future legislative appropriations to TWC;

--will not require an increase or decrease in fees paid to TWC;

--will not create a new regulation;

--will not expand, limit, or eliminate an existing regulation;

--will not change the number of individuals subject to the rule; and

--will not positively or adversely affect the state's economy.

Economic Impact Statement and Regulatory Flexibility Analysis

TWC has determined that the proposed rule will not have an adverse economic impact on small businesses or rural communities, as the proposed rule places no requirements on small businesses or rural communities. As noted above in this preamble, while there may be minimal initial costs for employers to comply with the proposed rule, primarily from adding data elements into existing reporting processes, these costs are expected to decrease or phase out as the requirements become part of routine quarterly wage reporting.

Mariana Vega, Director, Labor Market Information, has determined that there is not a significant negative impact upon employment conditions in the state as a result of the proposed rule.

Lowell Keig, Director, Unemployment Insurance Division, has determined that for each year of the first five years the proposed rule is in effect, the public benefit anticipated as a result of enforcing the proposed rule will be improved accuracy and completeness of workforce data, thereby enabling more effective economic planning, better alignment of workforce development programs with employer needs, improved educational planning, enhanced transparency in available labor market information, and strengthened fraud detection and prevention efforts.

PART IV. REQUEST FOR IMPACT INFORMATION

TWC requests, from any person required to comply with the proposed rule or any other interested person, information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis. Please submit the requested information to TWCPolicyComments@twc.texas.gov no later than September 7, 2026.

PART V. PUBLIC COMMENTS

Comments on the proposed rule may be submitted to TWCPolicyComments@twc.texas.gov and must be received no later than September 7, 2026.

PART VI. STATUTORY AUTHORITY

The rule is proposed under Texas Labor Code, §301.0015 and §302.002(d), which provide TWC with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of TWC services and activities.

The proposed rule relates to Texas Labor Code, Title 4, particularly Chapters 204 and 302.

*§815.107. Reports Required and Their Due Dates.*

(a) All reports and forms required by the Agency or the Act shall be filed with the Agency in one of the following formats unless a different format is approved in writing by the Agency, a hardship exemption is requested from and granted by the Agency, or as specified in this chapter.

(1) General Format of Reports and Forms and Methods of Submission. The reports and forms referenced in this section shall be filed using:

(A) forms printed by the Agency;

(B) electronic media in a format prescribed by the Agency; or

(C) any other manner approved and prescribed by the Agency in writing.

(2) Content. The reports and forms shall contain all facts and information necessary to a determination of the amounts due by the employing unit. The Agency may require the furnishing of additional information as it deems necessary for the proper administration of the Act.

(3) Electronic Media Reporting.

(A) Required Electronic Media. All employers and their agents shall file employers' reports, including both summary and detail wage information, as described in §207.004 of the Act, on electronic media using a format prescribed by the Agency.

(B) An electronic media transmission of an employer's report may contain information from more than one employer.

(C) An employer's report filed in an approved medium shall contain both a wage credit report and a summary report.

(b) General Deadlines for Filing Reports and Forms.

(1) Unless otherwise provided in this subchapter, any report or form shall be completed and filed with the Agency within 10 calendar days after the requested report or form is:

(A) mailed to the individual or employing unit at the address on record with the Agency; or

(B) personally delivered to the individual or employing unit by an Agency representative.

(2) Failure to receive notice regarding the reports shall not relieve the individual or employing unit of the responsibility of filing the reports by the date the reports are due.

(3) Good Cause for Extending Deadlines. When good cause is shown, the Agency may extend the due date for filing of a report required under this section; however, the extension shall be effective only if authorized in writing by an Agency representative.

(c) Status Reports.

(1) Status Reports in General. Each employing unit shall file with the Agency a status report within 10 calendar days from the date upon which the employing unit becomes subject to the Act.

(2) Status Reports for New Acquisitions. Any employing unit in the state of Texas that acquires another business or substantially all of the assets of another business shall file a new status report with the Agency within 10 calendar days of the date on which the employing unit made the acquisition.

(3) Status Reports for Additional Information. Each employing unit shall file additional status reports at any time upon the request of the Agency.

(4) Evidence in Support of Status Reports. Employing units filing status reports with the Agency shall:

(A) file with the Agency all facts necessary to a determination of the taxable status of the employing unit; and

(B) if requested, file with the Agency evidence to establish the correctness of information contained in the employing unit's status reports.

(d) Quarterly Reports from Taxed Employers. Each taxed employer, other than a domestic employer who has elected to report and pay annually under §201.027(b) of the Act, shall file with the Agency, within the month during which contributions for any period become due, and not later than the date on which contributions are required to be paid to the Agency, an employer's quarterly report showing for the preceding calendar quarter:

(1) the total amount of remuneration paid for employment (or showing that no remuneration was paid during the quarter);

(2) the total amount of wages paid for employment (as defined in the Act, §201.081 and §201.082);

(3) the amount of wages for benefit wage credits (as defined in the Act, §207.004) paid to each individual employee;

(4) the name and Social Security number of each individual to whom the wages were paid; [~~and~~]

(5) information required under §204.0025 of the Act, including at a minimum:

(A) wages;

(B) industry;

(C) occupation field;

(D) full-time or part-time status;

(E) county of primary employment; and

(F) remote work status.

(6) any information requested on the employer's quarterly report required to comply with additional workforce data reporting necessary for the Agency to conduct the assessment required under Texas Labor Code, §302.0205; and

(7) [~~(5)~~] any other information requested on the employer's quarterly report, including all facts and information necessary to make a determination of the amount of contributions due.

(e) Failure to provide information in subsection (d)(5) and (6) of this section shall be an indicator of enhanced risk when considering whether to audit employers that choose not to contribute data requested by the legislature under §204.0025 of the Act, to improve education and workforce decision making and combat fraud.

(f) [~~(e)~~] Quarterly Reports from Reimbursing Employers and Group Representatives of a Group Account. Each reimbursing employer and the group representative of a group account shall file an employer's quarterly report, by the end of the month following each calendar quarter, that furnishes the following information for the preceding calendar quarter, information specified in subsection (d)(1) - (6) [~~paragraphs (1) - (4) of subsection (d)~~] of this section, and any other information necessary to make a determination of the amount of reimbursements due.

(g) [~~(f)~~] Benefits Financed by the Federal Government. Each employer that has employees whose benefits are to be financed by the federal government shall file a separate quarterly report furnishing the names of the employees, their Social Security numbers, and the wages paid to each. The report shall be filed by the end of the month following each calendar quarter.

(h) [~~(g)~~] Annual Reports from Domestic Employers.

(1) Making the Election. An election to report wages paid and pay contributions on an annual basis must be made in a format or on a form authorized by the Agency by the deadline specified in §201.027 of the Act.

(2) Each domestic employer that qualifies under the Act, and who has made an election as referenced in paragraph (1) of this subsection, shall file with the Agency, by January 31 of the year after the wages were paid, in a format consistent with subsection (a) of this section, a domestic employer's annual report showing the following for the preceding calendar year in which wages were paid.

(A) The information specified in subsection (d)(1) - (6) [~~paragraphs (1) - (4) of subsection (d)~~] of this section subtotaled for each quarter; and

(B) Other information called for on the domestic employer's annual report including all facts and information necessary to make a determination of the amount of contributions due.

(3) Penalties and interest incurred under this section shall be the same as applicable to other employer reporting requirements as provided in Chapter 213 of the Act and this subchapter.

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

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Les Trobman
General Counsel
Texas Workforce Commission
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## SUBCHAPTER E. CONFIDENTIALITY AND DISCLOSURE OF STATE UNEMPLOYMENT COMPENSATION INFORMATION

### 40 TAC §815.165

The rule is proposed under Texas Labor Code, §301.0015(a)(6), which provides TWC with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of TWC services and activities.

The proposed rule relates to Texas Labor Code, Title 4, Subtitle A, The Texas Unemployment Compensation Act.

*§815.165. Exceptions to Confidentiality Requirements.*

(a) The Agency may disclose public domain information. For purposes of this section, public domain information includes directory information about the organization of the state, the Commission, and appellate authorities, as well as the names and positions of officials and employees; information about the state unemployment compensation law (and applicable federal law), provisions, rules, regulations, and interpretations, including statements of general policy and interpretations of general applicability; and any agreement relating to the administration of the state unemployment compensation law. Commission-designated precedent case digests from which all individually identifiable information has been removed constitute public domain information. Public domain information does not include information historically excepted from disclosure under the Public Information Act, Chapter 552, Texas Government Code, including, but not limited to, attorney/client privileged information; interagency memoranda containing advice, opinion, or recommendation to policy makers or decision makers; or other items historically excepted from disclosure under the Public Information Act.

(b) The Agency may disclose confidential unemployment compensation information about an individual or employer to that individual or employer, respectively, but in no event does this restrict the Agency from withholding information historically excepted from disclosure, including, but not limited to, confidential informant or attorney-client privileged information, or tax audit techniques.

(c) The Agency may disclose confidential unemployment compensation information if the requestor provides a written release signed by the individual or the employer whose records are requested, and if the written release demonstrates informed consent.

(d) The Agency may disclose confidential unemployment compensation information, based on informed consent, to the following:

(1) An agent acting for or in the place of an individual or an employer by the authority of that individual or employer if the agent presents a written release signed by the party to be represented. If a written release is impossible or impracticable to obtain, the Agency may accept other documentation sufficient to establish informed consent.

(2) An elected official performing constituent services provided the official presents reasonable evidence of authorization to obtain the information, such as a letter from the individual or employer requesting the elected official's assistance or a written record of a telephone request from the individual or employer that the individual or employer has authorized such disclosure.

(3) A licensed attorney retained for purposes unrelated to the state's unemployment compensation law; if the attorney provides a written statement declaring that they have [~~he or she has~~] been retained to represent the individual or employer, the requirements of a written release will have been met. An attorney retained for purposes related to the state's unemployment compensation law may assert that they are [~~he or she is~~] representing the individual or employer, and such assertion need not be in writing.

(4) A third party that is not acting as an agent, only if that entity provides the Commission with a copy of an informed consent release consistent with the requirements of §815.166 of this subchapter.

(5) A third party seeking confidential information on an ongoing basis, only if that entity submits an informed consent release consistent with the requirements of §815.166 of this subchapter. This requirement applies even if the third party is an agent seeking information on an ongoing basis.

(e) The Agency may disclose confidential unemployment compensation information to a public official for use in the performance of their [~~his or her~~] official duties, including the administration or enforcement of law or execution of the official responsibilities of a federal, state, or local elected official. Administration of law includes research related to the law administered by the public official. Execution of official responsibilities does not include solicitation of contributions or expenditures to or on behalf of a candidate for public or political office or a political party.

(f) The Agency may disclose confidential unemployment compensation information to a public official's agent or contractor if such disclosure is permissible under 20 CFR §603.5(e) [~~20 C.F.R. §603.5(e)~~] and only after evaluating the following factors:

(1) The potential threat to the employer's or individual's privacy posed by an entity's collection, storage, maintenance, use, and possible misuse of confidential unemployment compensation information;

(2) The costs associated with such disclosure;

(3) The agent or contractor's ability to comply with the requirements in 20 CFR §603.9 [~~20 C.F.R. §603.9~~] regarding safeguards and security of confidential unemployment compensation information;

(4) The costs of enforcement, including investigation and assessment of penalties for misuse of data;

(5) The costs to develop, monitor, and maintain systems sufficient to allow audit of the information;

(6) The personnel, travel, and equipment expenses associated with periodic monitoring and on-site audits required by 20 CFR §603.10 [~~20 C.F.R. §603.10~~]; and

(7) Whether the disclosure is for purposes of solicitation of contributions or expenditures to or on behalf of a candidate for public or political office or a political party.

(g) The Agency may disclose confidential unemployment compensation information to parties for purposes of claims adjudications, hearings, and appeals, consistent with this chapter.

(h) The Agency may disclose confidential unemployment compensation information to a federal official for purposes of UC program oversight and audits, including disclosures under 20 CFR Part 603 [~~20 C.F.R. Parts 29 and 601, as well as under C.F.R. Parts 96 and 97~~].

(i) The confidentiality requirements of this chapter do not apply to information collected exclusively for statistical purposes under a cooperative agreement with the Bureau of Labor Statistics (BLS). Further, this chapter's requirements do not restrict or impose any condition on the transfer of any other information to BLS under an agreement, or the disclosure or use of such information by BLS.

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

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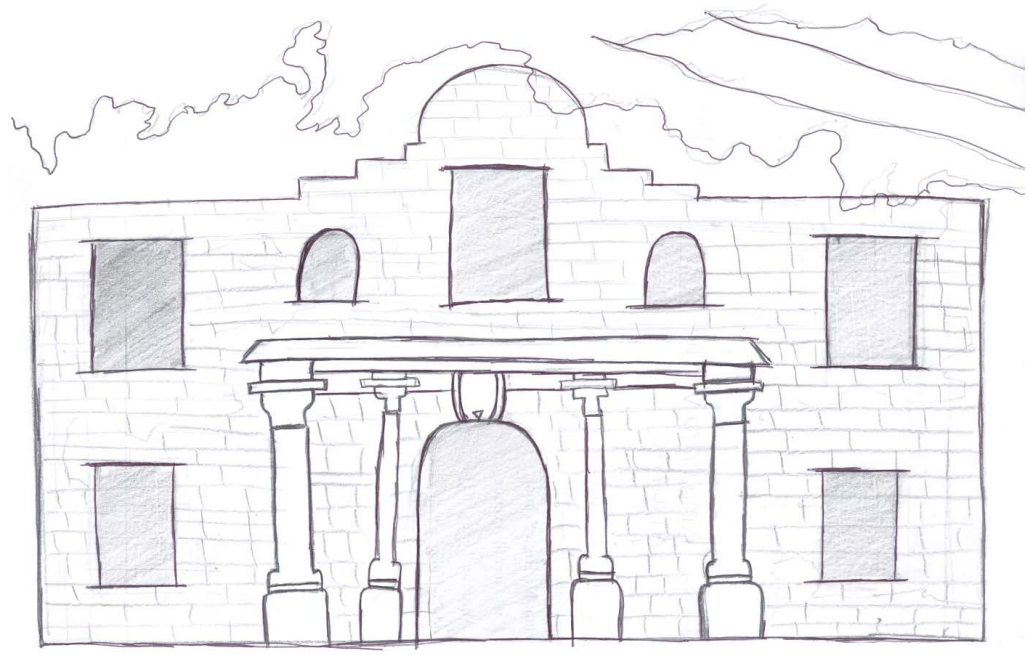

# ADOPTED RULES

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 1. ADMINISTRATION

## PART 15. TEXAS HEALTH AND HUMAN SERVICES COMMISSION

### CHAPTER 354. MEDICAID HEALTH SERVICES

### SUBCHAPTER O. ELECTRONIC VISIT VERIFICATION

**1 TAC §§354.4003, 354.4005, 354.4006, 354.4013**

The executive commissioner of the Texas Health and Human Services Commission (HHSC) adopts amendments to §354.4003, concerning Definitions; §354.4005, concerning Personal Care Services that Require the Use of EVV; §354.4006, concerning Home Health Care Services that Require the Use of EVV; and §354.4013, concerning HHSC and MCO Compliance Reviews and Enforcement Actions.

Sections 354.4003, 354.4005, 354.4006 and 354.4013 are adopted without changes to the proposed text as published in the April 3, 2026, issue of the *Texas Register* (51 TexReg 2166). These rules will not be republished.

BACKGROUND AND JUSTIFICATION

The amendments, in part, are necessary to comply with the Centers for Medicare & Medicaid Services (CMS) Contract Year 2023 Medicare Advantage and Part D Final Rule that required states to phase-out their Medicare-Medicaid Plan (MMP) Dual Demonstration Program. The amendments reflect that the STAR+PLUS MMP ended December 31, 2025.

The amendments also reflect that electronic visit verification (EVV) was required for STAR+PLUS MMP personal care and home health services, if delivered before January 1, 2026. This clarification is necessary because though the MMP Dual Demonstration Program ended on December 31, 2025, program providers and financial management services agencies (FMSAs) may need to submit EVV claims for MMP services that were delivered before the MMP Dual Demonstration Program end date.

The amendments remove Free Text Reviews from the list of compliance reviews because HHSC and managed care organizations (MCOs) stopped conducting these reviews in 2023.

The amendments add an EVV Alternative Device Compliance Review, and the actions HHSC and the MCO may take, if a program provider's or consumer directed services (CDS) employer's EVV Alternative Device Compliance score exceeds the allowable percentage score described in the EVV Policy Handbook. The alternative device reduction schedule is in the EVV Policy Handbook, limiting the use of an alternative device as an approved method to clock in and clock out of an EVV system over a four-year period beginning September 1, 2025 (fiscal year 2026). Gradually reducing reliance on alternative devices allows program providers and CDS employers time to migrate their service providers and CDS employees to one of the other approved clock in and clock out methods. The purpose for limiting the use of an alternative device is to enhance program integrity.

The amendments require a program provider or CDS employer to use EVV if Medicaid pays for any part of the personal care or home health care services that require EVV. These amendments clarify that EVV must be used if these services are paid for by both Medicaid and a third party, such as private insurance.

The amendment to §354.4003 defines "dual eligible member" to make sure the public understands the meaning of this term when used in the rules and revises the definitions of EVV proprietary system, EVV state vendor system, and program provider to make their meanings clearer.

The amendment to §354.4013 clarifies that the action HHSC or the MCO may propose the third time a CDS employer does not meet the EVV Usage Score may end the member's participation in the CDS option, not terminate the member from the Medicaid program.

COMMENTS

The 31-day comment period ended May 4, 2026.

HHSC received comments regarding the proposed rules from two commenters. HHSC received comments from Deaf Blind Services Of Texas and the Texas Association of Home Care and Hospice. A summary of comments relating to the rules and HHSC's responses follows.

Comment: One commentor suggested the rules do not clearly state EVV is required when Medicaid pays for any part of a service, and that such language should be added.

Response: HHSC disagrees and declines to revise the rule in response to this comment. Upon adoption, §354.4005(a), §354.4005(b), §354.4006(a) and §354.4006(b) will explicitly state that a program provider or CDS employer must use EVV to document the delivery of personal care services and home health care services if HHSC, an HHSC designated contractor, or an MCO pays for any part of the claim for these services.

Comment: One commenter suggested that the rules should clearly state whether value-added services provided by an MCO require EVV.

Response: HHSC disagrees and did not revise the rules in response to this comment. EVV is designed to protect state and federal Medicaid funds from fraud, waste and abuse. Value-added services (VAS), by definition, are supplemental benefits

provided by an MCO that are not Medicaid-covered services and do not involve Medicaid funds. Section 354.4005 and §354.4006 tie the EVV requirement to specific personal care and home health services delivered as part of Medicaid benefits. VAS is outside of that scope. Although the MCO is paying for VAS, the MCO's payment to the provider for the services provided exclusively under VAS is not part of a Medicaid claim. An MCO offering VAS may choose to require that the provider comply with visit verification regarding VAS, but the MCO's VAS requirements are not subject to Medicaid rules. Adding VAS to an EVV rule would be inconsistent with the rule's own defined scope of applicability.

Comment: One commenter stated that EVV was introduced as a no-cost clock in and clock out system and that the rules do not save the state money. The EVV system has evolved into a restrictive process with mandatory compliance that has shifted the operational costs to the providers and FMSAs.

Response: HHSC disagrees and declines to revise the rule in response to this comment. HHSC must comply with state and federal law to implement EVV as required by Texas Government Code Chapter 532, Subchapter F and the 21st Century Cures Act (Section 1903(l) of the Social Security Act). The Cures Act requires that HHSC use EVV to collect visit transaction data electronically. Texas' EVV model is an Open Vendor Model which is a hybrid model where the state contracts with at least one EVV system while allowing the program providers and FMSAs to use a proprietary system if they choose. If a program provider or FMSA chooses to use a proprietary system, they assume all costs associated with the use of that system. If program providers and FMSAs do not wish to assume these costs, they may choose to use the state-provided EVV system vendor for free.

Comment: One commenter suggested alternative devices be available the same as other approved clock in and clock out methods.

Response: HHSC disagrees and declines to revise the rule in response to this comment. Alternative devices do not track the location of service delivery like the mobile application and the landline telephone. HHSC is limiting alternative devices in order to improve program integrity.

Comment: In a joint comment, both commenters expressed concerns about the alternative device usage limits. They stated that program providers and CDS employers must monitor the use of alternative devices to ensure service providers and CDS employees do not exceed the thresholds, but that the thresholds are not specified in the rule. In addition, they have stated that program providers and CDS employers should be allowed to use alternative devices after the phase out. They suggest that the rules be amended to include the alternative device usage thresholds and allow program providers and CDS employers to use alternative devices for some visit transactions after the use is phased out.

Response: HHSC disagrees with this comment and declines to revise the rule in response to this comment at this time. HHSC is not eliminating alternative devices but rather reducing the allowable percentage of visit transactions made with an alternative device. The reduction will occur over a four-year period beginning September 1, 2025 (fiscal year 2026), and effective September 1, 2028, program providers and CDS employers must limit the number of visit transactions made with an alternative device to 5% of their total visit transactions. This allows program providers and CDS employers to use alternative devices in limited situations where no other alternative exists for using EVV. The alternative device reduction schedule is in the EVV Policy Handbook and referenced in the rules. HHSC will review the rules and consider whether it is appropriate to amend the rules in a future rule project to include the alternative device reduction schedule.

Comment: One commenter stated that limiting the use of alternative devices requires staff to own smartphones to use the mobile application for clocking in and clocking out. Many service providers and CDS employees do not own or have access to a smart phone. The commenter also stated that the change does not allow service providers to share a smart phone with family members. This creates a barrier to people becoming service providers or CDS employees and limits the available workforce. The amended rules do not allow service providers or CDS employees to share a smart phone with family.

Response: HHSC disagrees and declines to revise the rule in response to this comment. HHSC does not mandate that service providers use their personal devices or personal data. It is the responsibility of the service provider's employer (the program provider or CDS employer) to ensure that the service provider has the tools necessary to comply with EVV requirements. There is no restriction on a service provider or CDS employee using a family member's smartphone or device for EVV. The service provider or CDS employee may use a family member's smart phone or device but must not share their login credentials or allow the family member's smartphone or device to store their login credentials. The Federal Communications Commission Lifeline program also offers free and low-cost smart phones with data plans to people who meet certain eligibility criteria. Program providers and CDS employers may encourage staff who do not have a smart phone or device to explore the Lifeline program.

Comment: One commenter stated the limit on the use of alternative devices does not offer any public benefit or protect taxpayer money and would potentially harm members.

Response: HHSC disagrees and declines to revise the rule in response to this comment. Since alternative devices do not track the location, it is not possible to confirm where the service provider or CDS employee uses the device to obtain the code used to clock in and clock out. The service provider or CDS employee could remove the alternative device from the member's home and obtain the codes while not providing services. Limiting the use of alternative devices to those situations where there is no other option for clocking in and clocking out increases the integrity of the program.

Comment: One commenter stated that HHSC should not have the authority to limit approved clock in and clock out methods. Landlines are almost obsolete, so limiting the use of alternative devices would force service providers and CDS employees to use a smart phone or device. Federal guidance requires EVV to be easy to use.

Response: HHSC disagrees and declines to revise the rule in response to this comment. HHSC has broad statutory authority to implement and amend rules, including those regarding EVV. Texas Government Code §532.0260 directs HHSC to adopt rules to implement EVV. HHSC has been given authority to decide what methods and models to use. The Cures Act, CMS regulations, and Texas Government Code Chapter 532, Subchapter F do not require the use of a specific type of EVV model or method for collecting the required data, and do not require HHSC to permit the use of alternative devices. CMS guidance says states should develop an EVV system that best meets the state's needs in consultation with stakeholders. HHSC has multiple EVV work-

groups that have been meeting since 2019 to discuss all aspects of EVV.

Comment: One commenter stated the purpose of EVV is to prevent fraud and ensure the member receives care. Using an alternative device is not fraudulent.

Response: HHSC agrees but declines to revise the rule in response to this comment. While alternative devices are not fraudulent in and of themselves, they are more prone to be used fraudulently than the other approved EVV clock in and clock out methods because alternative devices do not provide the location where the device is used.

Comment: One commenter opposed the 80% EVV Usage score in §354.4013(b) and (c) because it does not reflect service delivery standards, only EVV transactions. In addition, the commenter stated the usage score can initiate a progressive enforcement process and is a risk when applied to home and community-based settings.

Response: HHSC appreciates the commenter's participation in its rulemaking process. However, HHSC did not propose to amend §354.4013(b) in this proposal. HHSC amended §354.4013(c)(3) to change "terminate" to "end" to improve the plain language of the rule, but otherwise there were no substantive changes to §354.4013(c). Therefore, HHSC declines to revise the rule in response to this comment because this comment is out of scope for this proposal.

Comment: One commenter suggested the rules should be revised to include timelines for HHSC and the MCOs to respond when the program providers or CDS employers submit training documentation, corrective action plans and other required documentation. The lack of timelines creates uncertainty regarding the acceptance of the documentation.

Response: HHSC disagrees and declines to revise the rule in response to this comment. The rule already includes certain compliance timelines. For example, throughout §354.4013, the rules require that corrective action plans must be completed within 10 days. Additionally, the rule requires that the EVV policy and system trainings be completed within a time frame that will be specified.

Comment: One commenter suggested the EVV rules should include hearing rights.

Response: The right to request an administrative hearing, and to appeal, for an HHSC or MCO proposed action described in §354.4013 are currently found in the EVV rules in §354.4025, Administrative Hearing. Therefore, HHSC declines to revise §354.4013 in response to this comment.

Comment: One commenter suggested that the rule should include a phased implementation of compliance standards.

Response: HHSC disagrees and declines to revise the rule in response to this comment. As detailed in the EVV Policy Handbook 7040, HHSC has already established a timeline to reduce the use of alternative devices over a four-year period beginning September 1, 2025 (fiscal year 2026).

Comment: One commenter is concerned about escalation to potential contract termination for non-compliance and suggests HHSC should require a case-by-case review prior to initiating a termination and use training and corrective action plans before more severe penalties.

Response: HHSC declines to revise the rule in response to this comment. HHSC policy and the rules in §354.4013(b) and (h) require program providers and CDS employers to complete training and corrective action plans if they exceed the allowable Alternative Device Usage percentage. HHSC may only propose to terminate the contract of the program provider or to end the member's participation in the CDS option when there is a third occurrence of exceeding the Alternative Device Usage percentage in a 24-month period. In addition, the EVV Policy Handbook details that before proposing to terminate the program provider's contract or to end the member's participation in the CDS Option, HHSC or the MCO must do their due diligence and make sure failure to meet and maintain an acceptable compliance score was not because of circumstances beyond the program provider's or CDS employee's control, such as payer errors, system issues or natural disasters.

Comment: One commenter suggested HHSC use timesheets with member verification as an alternative to electronic clock in and clock out methods.

Response: HHSC disagrees and declines to revise the rule in response to this comment. CMS has clarified that states cannot accept a timesheet completed by the service provider or CDS employee and verified by the member in lieu of the service provider or CDS employee using EVV. Per the CMS Informational Bulletin titled "Additional EVV Guidance" dated August 8, 2019, timesheets verified by the member do not sufficiently electronically verify the required data elements. Allowing this would violate the Cures Act requirements to use EVV for personal care services and home health care services.

Comment: One commenter stated that eliminating free text reviews limits the program provider's or CDS employer's ability to document valid explanations.

Response: HHSC disagrees and declines to revise the rule in response to this comment. HHSC and the MCOs no longer conduct free-text reviews. HHSC added bill time in and bill time out fields that allow program providers, FMSAs and CDS employers to adjust the time of a visit transaction. As a result of the addition of these fields the clock in and clock out time generated when the service provider or CDS employee clocks in or clocks out of the EVV system are no longer adjusted. In addition, the new Reason Codes effective Oct. 1, 2023, provide more information, thus eliminating the need for free text. Program providers and CDS employers are still able, if they choose, to include free text to provide further explanations. Eliminating the routine review of free text by HHSC and the MCOs does not limit the provider's ability to include free text for documentation purposes. HHSC program staff conducting compliance reviews and OIG staff conducting investigations may use the free text as additional documentation.

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; Texas Government Code §532.0260, 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 July 24, 2026.

TRD-202603142
Karen Ray
Chief Counsel
Texas Health and Human Services Commission
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Proposal publication date: April 3, 2026
For further information, please call: (512) 438-5241

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# TITLE 19. EDUCATION

## PART 1. TEXAS HIGHER EDUCATION COORDINATING BOARD

### CHAPTER 1. AGENCY ADMINISTRATION

### SUBCHAPTER A. GENERAL PROVISIONS

#### 19 TAC §§1.9, 1.13, 1.16

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments to Title 19, Part 1, Chapter 1, Subchapter A, §§1.9, 1.13, and 1.16, General Provisions, without changes to the proposed text as published in the April 10, 2026, issue of the *Texas Register* (51 TexReg 2315). The rules will not be republished.

This amendment will make minor conforming changes.

Texas Education Code, §61.035, authorizes the Coordinating Board to engage in rulemaking involving compliance monitoring. Texas Education Code, §61.027, provides the Coordinating Board with general rule making authority.

Rule 1.9, Training for Members of Governing Boards and Board Trustees, adds a requirement that members of governing boards provide a sworn statement to the Board that they understand their duties and responsibilities in accordance with statutory changes made by Senate Bill 37, 89th Texas Legislature, Regular Session, updating Texas Education Code, Section 61.084.

Rule 1.13, Internal Audit and Compliance Monitoring, adds a definition for Coordinating Board and distinguishes the duties of the Board itself and the Board staff. The amendment also adds a reference to §13.525 and provides that a compliance monitoring plan must be presented to the full Board rather than the Agency Operations Committee.

Rule 1.16, Contracts, Including Grants, for Materials and/or Services, provides that written notifications be provided to the Board Secretary rather than the Agency Operations Committee.

Doug Brock, General Counsel, has determined that for each of the first five years the sections are in effect there would be no fiscal implications for state or local governments as a result of enforcing or administering the rules. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rule. There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rule.

No comments were received regarding the adoption of the repeal.

The amendment is adopted under Texas Education Code, Sections 61.027, 61.035, and 61.084, which provide the Coordinating Board with the authority to make rules generally and specifically related to compliance monitoring and Board Training.

The adopted amendment affects Texas Education Code, Sections 61.035 and 61.084.

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 July 23, 2026.

TRD-202603090
Douglas Brock
General Counsel
Texas Higher Education Coordinating Board
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For further information, please call: (512) 427-6375

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### SUBCHAPTER F. LEAVE POOLS

#### 19 TAC §1.126, §1.127

The Texas Higher Education Coordinating Board (Coordinating Board) adopts new rules in Title 19, Part 1, Chapter 1, Subchapter F, §1.126 and §1.127, Leave Pools, with changes to the proposed text as published in the April 10, 2026, issue of the *Texas Register* (51 TexReg 2318). The rules will be republished.

This new section updates and aligns the sick leave pool rule with statute, moves it to a more appropriate place in the chapter, and adds a rule for the family leave pool.

Texas Government Code, Chapter 661, Subchapters A and A-1, authorizes the Coordinating Board to engage in rulemaking involving sick leave pools and family leave pools.

Rule 1.126, Sick Leave Pool for Board Employees, designates the sick leave pool administrator and provides that the pool will be administered in accordance with policy.

Rule 1.127, Family Leave Pool for Board Employees, designates the family leave pool administrator and provides that the pool will be administered in accordance with policy.

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

Section 1.126 is amended to fix a typo.

Section 1.127 is amended to fix a typo.

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

The new sections are adopted under Texas Government Code, Sections 661.002(c) and 661.022(c), which provide the Coordinating Board with the authority to adopt rules regarding the operation of a sick leave pool and a family leave pool for Coordinating Board employees.

The adopted rules affect Texas Government Code, Sections 661.002 and 661.022.

*§1.126. Sick Leave Pool for Board Employees.*

A sick leave pool is established to alleviate hardship caused to an employee and the employee's family if a catastrophic illness or injury forces the employee to exhaust all leave time earned by that employee and to lose compensation from the state.

(1) The Assistant Commissioner for People Operations is designated as the pool administrator.

(2) The pool will be operated according to the Coordinating Board's Policies and Procedures.

(3) Operation of the pool shall be consistent with Texas Government Code, Chapter 661.

*§1.127. Family Leave Pool for Board Employees.*

A family leave pool is established to provide eligible employees more flexibility in bonding with and caring for children during a child's first year following birth, adoption, or foster placement, and caring for a seriously ill family member or the employee's own serious illness, including pandemic-related illnesses or complications caused by a pandemic.

(1) The Assistant Commissioner for People Operations is designated as the pool administrator.

(2) The pool will be operated according to the Coordinating Board's Policies and Procedures.

(3) Operation of the pool shall be consistent with Texas Government Code, Chapter 661.

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 July 23, 2026.

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Douglas Brock
General Counsel
Texas Higher Education Coordinating Board
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For further information, please call: (512) 427-6116

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## SUBCHAPTER AA. SICK LEAVE POOL

### 19 TAC §1.900

The Texas Higher Education Coordinating Board (Coordinating Board) adopts the repeal of Title 19, Part 1, Chapter 1, Subchapter AA, §1.900, Sick Leave Pool, without changes to the proposed text as published in the April 10, 2026, issue of the *Texas Register* (51 TexReg 2319). The rule will not be republished.

This repeal was done in conjunction with a new set of rules that are in a more appropriate subchapter and are better aligned with the statute.

Texas Government Code, Chapter 661, Subchapter A, authorizes the Coordinating Board to engage in rulemaking involving the sick leave pool.

No comments were received regarding the adoption of the repeal.

The repeal is adopted under Texas Education Code, Section 661.002(c), which provides the Coordinating Board with the authority to adopt rules regarding the operation of a sick leave pool for Coordinating Board employees.

The adopted repeal affects Texas Government Code, Section 661.002.

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 July 23, 2026.

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Douglas Brock
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Texas Higher Education Coordinating Board
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## CHAPTER 2. ACADEMIC AND WORKFORCE EDUCATION

## SUBCHAPTER P. APPROVAL PROCESS AND CRITERIA FOR OFF-CAMPUS EDUCATION AT PUBLIC UNIVERSITIES AND HEALTH-RELATED INSTITUTIONS

### 19 TAC §§2.380 - 2.384, 2.386, 2.388, 2.389

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments to Texas Administrative Code, Title 19, Part 1, Chapter 2, Subchapter P, §2.382 and new §2.388, Approval Process and Criteria for Off-Campus Education at Public Universities, Health-Related institutions, and Public Two-Year Colleges, with changes to the proposed text as published in the April 10, 2026, issue of the *Texas Register* (51 TexReg 2320). The rules will be republished. Sections 2.380, 2.381, 2.383, 2.384, 2.386 and 2.389 are adopted without changes and the rules will not be republished.

These amendments and new sections incorporate and streamline approval processes for off-campus education at public two-year colleges (other than technical colleges). The existing rules for public two-year colleges in Chapter 4, Subchapter Q, are simultaneously being repealed. Off-campus rules for public technical colleges are simultaneously being adopted in Chapter 11, Subchapter C.

The Coordinating Board is authorized by Texas Education Code (TEC), §61.0512(a), which requires Coordinating Board approval for a new certificate or degree program, TEC, §61.0512(g), which requires prior approval from the Coordinating Board to offer off-campus courses, and TEC, §51.981, which establishes criteria for approval of off-campus employer requested programs.

The title of the subchapter is amended to incorporate public two-year colleges.

Section 2.80, Purpose and Applicability, is amended to indicate the rules also apply to a public two-year college other than a technical college.

Section 2.382, Definitions, is amended to distinguish in the definition of "Off-Campus Educational Site" the differ-

ence between public two-year colleges other than technical colleges (outside the institution's service area) and public universities and health-related institutions (away from the main campus). The section is also amended to include definitions for "Main Campus" and "Employer Requested Off-Campus Program".

Section 2.383, Standards and Criteria for Delivery of Courses and programs at an Off-Campus Educational Site, is amended for additional clarity and to reference Coordinating Board approval of off-campus educational sites, as applicable to branch campuses for community colleges.

Section 2.384, Notification Required for Off-Campus Delivery of Courses, Certificates, and Less than Fifty Percent (50%) of a Degree Program, is amended for language consistency within the rules.

Section 2.388, Employer Requested Off-Campus Programs, establishes procedures and criteria to establish an employer requested off-campus non-credit or credit program.

Section 2.389, Effective Date of Rules, specifies the rules are applicable to approvals on or after September 1, 2026.

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

Section 2.382 is amended to clarify that the definition for Employer Requested Off-Campus Program includes either a credit or non-credit program.

Section 2.388 is amended to clarify that the employer requested program under TEC, §51.981, does not require off-campus location approval from the Coordinating Board, but does require appropriate certificate or degree program approval and by removing language that refers to standard regional notification requirements from which statute exempts employer-requested off-campus programs.

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

Comment: Del Mar College, Midland College, North Central Texas College, Alamo College Districts, Blinn College District, all submitted comments concerning Coordinating Board oversight of employer requested programs under Texas Education Code, §51.981. The comments assert that the proposed rules remove Coordinating Board oversight of the development of employer-requested programs and that Texas Education Code, §51.981, only exempts programs from higher education regional council oversight. The comments raised concerns about the potential unnecessary duplication with removal of Coordinating Board approval or oversight.

Response: The Coordinating Board thanks the institutions for the comments but disagrees with the assertion that the proposed rules do not require oversight of employer-requested programs by the Coordinating Board. The language in §2.388(b) flagged in the institution's comment, "without prior approval of the Coordinating Board", is specific to the off-campus location of the program, not for approval of the program. Section 2.388(c) requires Coordinating Board approval of any new degree program developed for the purpose of the employer requested program. Section 2.388(d) requires that any modifications which fall under existing Board oversight made to a program for the purpose of an employer-requested program be submitted to the Coordinating Board for review or approval. Subsection (e) requires that an institution notify the Coordinating Board of any employer-requested program under the same provisions for off-campus delivery of a program or certificate. The provisions under (c), (d), and (e), all provide varying levels of Coordinating Board oversight for employer-requested program, requiring that institutions still follow standardized program approval and program modification procedures for all employer-requested programs.

Comment: South Texas College submitted a comment concerning the use of the term "non-credit" in the proposed new §2.388, and requested clarity on whether that employer-requested non-credit courses are included in the site notification requirements under §2.384.

Response: The Coordinating Board thanks the institution for its comment. Regarding use of the term "non-credit", the definition of Employer Requested Off-Campus Program has been amended to provide clarity that employer requested off-campus programs may be for credit or non-credit, in alignment with statute. Regarding the site notification under §2.384, sites where non-credit courses that are part of employer requested programs should be included in the required notification. Board staff will provide additional implementation guidance after rule adoption.

The amendments and new sections are adopted under Texas Education Code, Section 61.0512(a) which requires Coordinating Board approval for a new certificate or degree program, Texas Education Code, Section 61.0512(g) which requires prior approval from the Coordinating Board to offer off-campus courses, and Texas Education Code, Section 51.981, which establishes criteria for approval of off-campus employer requested programs.

The adopted amendment and new sections affect Texas Education Code, Sections 61.0512(g), and 51.981.

*§2.382. Definitions.*

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

(1) Off-Campus Degree Program--A degree program in which fifty percent (50%) or more of required instruction or coursework is in-person at an off-campus educational site.

(2) Off-Campus Educational Site--An additional location, which may include a branch campus or a center, approved by the institution's Board-recognized accreditor in accordance with 34 C.F.R. §600.32, and:

(A) For public universities and health-related institutions, an off-campus educational site is any site away from the main campus where the required instruction or coursework for a credit course, certificate, or degree program is delivered in-person.

(B) For public two-year colleges other than a technical college, an off-campus educational site is any site outside of the institution's service area where required instruction or coursework for a credit course, certificate, or degree program is delivered in person.

(3) Main Campus--The primary campus or campuses of an institution of higher education providing instruction and supported by on-site administration, also referred to as on-campus.

(4) Employer Requested Off-Campus Program--A credit or non-credit degree or certificate program and site requested by an employer pursuant to Texas Education Code, Chapter 51, §51.981.

*§2.388. Employer Requested Off-Campus Programs.*

(a) To establish an employer requested off-campus, non-credit, or credit program, an employer shall first solicit, in writing, an agreement with an institution of higher education within the uniform state service region or a public junior college's service area, as applicable, where the employer requested off-campus educational site is located.

(b) If the institution initially solicited for an agreement under subsection (a) of this section does not finalize an offer to enter into an agreement with the employer that meets the employer's specifications for the off-campus program within six weeks of the initial written offer, the employer may enter into an agreement with another institution of higher education without prior off-campus location approval of the Coordinating Board.

(c) If the employer requested off-campus program is a new degree or certificate program, an institution of higher education shall request Coordinating Board approval of the new degree or certificate program, in accordance with the requirements of this chapter concerning approval of new degree and certificate programs, prior to delivery of the employer requested off-campus program.

(d) If the employer requested off-campus program is an existing program that will be modified for the purpose of delivery for the employer, an institution shall follow the program modification requirements set forth in this chapter.

(e) An institution of higher education shall notify the Coordinating Board of the employer-requested program.

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 July 23, 2026.

TRD-202603099
Douglas Brock
General Counsel
Texas Higher Education Coordinating Board
Effective date: August 12, 2026
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For further information, please call: (512) 427-6299

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**19 TAC §2.388**

The Texas Higher Education Coordinating Board (Coordinating Board) adopts the repeal of Title 19, Part 1, Chapter 2, Subchapter P, §2.388, Effective Date of Rules, without changes to the proposed text as published in the April 10, 2026, issue of the *Texas Register* (51 TexReg 2322). The rule will not be republished.

This repeal allows the agency to insert a new section into the subchapter.

The Coordinating Board is authorized by Texas Education Code, §61.0512(g) and §51.981, to approve off-campus credit courses.

No comments were received regarding the adoption of the repeal.

The repeal is adopted under Texas Education Code, Sections 61.0512(g), and 51.981 which provides the Coordinating Board with the authority to approve off-campus credit courses.

The adopted repeal affects Texas Education Code, Sections 61.0512(g) and 51.981.

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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Douglas Brock
General Counsel
Texas Higher Education Coordinating Board
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For further information, please call: (512) 427-6299

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## SUBCHAPTER R. TEXAS MENTAL HEALTH PROFESSION PIPELINE PROGRAM

**19 TAC §§2.500 - 2.503**

The Texas Higher Education Coordinating Board (Coordinating Board) adopts new rules in Title 19, Part 1, Chapter 2, Subchapter R, §§2.500 - 2.503, Texas Mental Health Profession Pipeline Program without changes to the proposed text as published in the April 24, 2026, issue of the *Texas Register* (51 TexReg 2559). The rules will not be republished.

These new sections establish the requirements for participation in the Texas Mental Health Profession Pipeline Program.

Texas Education Code, §61.070, creates the Texas Mental Health Profession Pipeline Program and requires the Coordinating Board to develop rules relating to program administration.

Section 2.500, Purpose and Authority, establishes the purpose of the subchapter and defines the statutory authority for developing rules.

Section 2.501, Definitions, establishes definitions specific to the subchapter.

Section 2.502, Requirements for the Texas Mental Health Pipeline Program, establishes general requirements of program, including roles and responsibilities of the Coordinating Board.

Section 2.503, Requirements for Participating Institutions, establishes requirements for each participating institution including expectations, deliverables, and annual reporting.

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

The new sections are adopted under Texas Education Code, Section 61.070, which provides the Coordinating Board with the authority to adopt rules for the Texas Mental Health Profession Pipeline Program.

The adopted new sections affect Texas Education Code, Section 61.070.

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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Douglas Brock
General Counsel
Texas Higher Education Coordinating Board
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For further information, please call: (512) 427-6299

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## CHAPTER 4. RULES APPLYING TO ALL PUBLIC INSTITUTIONS OF HIGHER EDUCATION IN TEXAS
## SUBCHAPTER Q. APPROVAL OF OFF-CAMPUS AND SELF-SUPPORTING COURSES AND PROGRAMS FOR PUBLIC INSTITUTIONS

### 19 TAC §§4.270 - 4.279

The Texas Higher Education Coordinating Board (Coordinating Board) adopts repeal of Title 19, Part 1, Chapter 4, Subchapter Q, §§4.270 - 4.279, Approval of Off-Campus and Self-Supporting Courses and Programs for Public Institutions, without changes to the proposed text as published in the April 10, 2026, issue of the *Texas Register* (51 TexReg 2323). The rules will not be republished.

Rules relating to approval of self-supporting courses and programs have been replaced in Chapter 2, Subchapter O. Rules relating to the approval of off-campus courses and programs for public universities and health-related institutions have been replaced in Chapter 2, Subchapter P, and are being amended at the same time as this repeal to include public junior colleges. Rules relating to approval for off-campus courses and programs at Texas state technical colleges are being adopted in Chapter 11, Subchapter B, at the same time as this repeal.

Texas Education Code (TEC), §61.002, charges the Coordinating Board with "the elimination of costly duplication in program offerings, faculties, and physical plants." TEC, §61.0512(a), requires Coordinating Board approval for a new certificate or degree program. TEC, §61.0512(g), states that institutions may offer off-campus credit courses only with prior approval from the Coordinating Board.

No comments were received regarding the adoption of the repeal.

The repeal is adopted under Texas Education Code, Section 61.0512(g), which states that institutions may offer off-campus credit courses only with prior approval from the Coordinating Board.

The adopted repeal affects Texas Education Code, Sections 61.0512(g) and 51.661.

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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Douglas Brock
General Counsel
Texas Higher Education Coordinating Board
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For further information, please call: (512) 427-6299

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## SUBCHAPTER W. RESEARCH SECURITY AND FOREIGN ADVERSARY RESTRICTIONS

### 19 TAC §4.356

The Texas Higher Education Coordinating Board (Coordinating Board) adopts new rules in Texas Administrative Code, Title 19, Part 1, Chapter 4, Subchapter W, §4.356, Gifts of De Minimis Value with changes to the proposed text as published in the April 10, 2026, issue of the *Texas Register* (51 TexReg 2323). The rule will be republished.

This new section establishes a definition for gifts of "de minimis value", in accordance with statutory changes made by House Bill 127, 89th Texas Legislature, Regular Session, updating Texas Education Code (TEC) Chapters 51 and 51B.

The Coordinating Board is required by TEC, §51B.051(a) to, in consultation with the Higher Education Research Security Council, determine by rule what constitutes a gift of "de minimis value." The Coordinating Board has consulted with the Higher Education Research Security Council in proposing this rule.

Rule 4.356, Gifts of De Minimis Value, implements TEC, §51B.051(a), by defining "de minimis value" for purposes of the statutory restriction on accepting gifts from a foreign source of a foreign adversary as defined in §51B.001. The rule limits de minimis value to non-cash items under $50 that are unsolicited, non-recurring, and not offered in exchange for any official action (i.e., nominal promotional items), and specifies that cash or cash equivalents, travel or related hospitality, honoraria, non-public discounts, recurring or decision-linked items, and items where the source or intent would lead a reasonable person to believe the gift is from a foreign adversary or presents institutional security concerns.

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

Section 4.356(b)(6) is amended to replace the prohibition on gifts where the "source, intent, or circumstances" are "unclear," to gifts where the "source, intent, or circumstances would cause a reasonable person to conclude the gift may directly or indirectly be offered from a foreign source of a foreign adversary or otherwise create a material research security, ethics, or institutional integrity concern."

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

Comment: The University of Texas at Austin submitted a comment with a concern that the proposed language of §4.356(b)(6) restricting gifts with unclear "source, intent, or circumstances" was ambiguous and overbroad, and should be replaced with a more clear "reasonable person" standard restricting gifts adverse to institutions' security.

Response: The Coordinating Board appreciates the feedback and has amended §4.356(b)(6). The rules now restrict gifts where the source, intent, or circumstances would lead a rea-

sonable person to believe the gift is from a foreign adversary or presents institutional security concerns.

The new section is adopted under Texas Education Code, Section 51B.051(a), which requires the Coordinating Board to, in consultation with the Higher Education Research Security Council, determine by rule what constitutes a gift of "de minimis value."

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

*§4.356. Gifts of De Minimis Value.*

(a) For purposes of Texas Education Code, §51B.051, which restricts institutions of higher education and their employees from accepting gifts from a foreign source of a foreign adversary unless the gift is of de minimis value, a "gift of de minimis value" means a non-cash item with a value of less than $50 that is unsolicited, non-recurring, and not offered in exchange for any official action (i.e., a nominal promotional item).

(b) The following are not gifts of de minimis value:

(1) cash or cash equivalents (including gift cards);

(2) travel, lodging, meals, or entertainment;

(3) honoraria;

(4) discounts not publicly available;

(5) anything recurring, tied to a business decision, or that could reasonably be viewed as influencing official action; or

(6) anything where the source, intent, or circumstances would cause a reasonable person to conclude the gift may directly or indirectly be offered from a foreign source of a foreign adversary or otherwise create a material research security, ethics, or institutional integrity concern.

(c) The acceptance of a gift of de minimis value by an institution of higher education or an employee of an institution of higher education from a foreign source of a foreign adversary as defined in Texas Education Code, §51B.001, does not violate Texas Education Code, §51B.051.

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 6. HEALTH EDUCATION, TRAINING, AND RESEARCH FUNDS
## SUBCHAPTER E. TEXAS EMERGENCY AND TRAUMA CARE EDUCATION PARTNERSHIP PROGRAM

**19 TAC §§6.91 - 6.96**

The Texas Higher Education Coordinating Board (Coordinating Board) adopts the repeal of Title 19, Part 1, Chapter 6, Subchapter E, §§6.91 - 6.96, Texas Emergency and Trauma Care Education Partnership Program, without changes to the proposed text as published in the April 10, 2026 issue of the *Texas Register* (51 TexReg 2324). The rules will not be republished.

This repeal removes duplicate administrative rules that have been revised and moved to Chapter 10, Subchapter H.

Texas Education Code, Chapter 61, Subchapter HH, §§61.9801 - 61.9807, authorizes the Coordinating Board to adopt rules to administer the Texas Emergency Trauma Care Education Partnership Program.

No comments were received regarding the adoption of the repeal.

The repeals are adopted under Texas Education Code, Chapter 61, Subchapter HH, Sections 61.9801 - 61.9807, which authorizes the Coordinating Board to adopt rules to administer the Texas Emergency Trauma Care Education Partnership Program. The adopted repeal affects Texas Education Code, Sections 61.9801 - 61.9807.

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 11. TEXAS STATE TECHNICAL COLLEGE SYSTEM
## SUBCHAPTER C. OFF-CAMPUS RULES FOR TEXAS STATE TECHNICAL COLLEGE SYSTEM

**19 TAC §§11.40 - 11.48**

The Texas Higher Education Coordinating Board (Coordinating Board) adopts new rules in Texas Administrative Code, Title 19, Part 1, Chapter 11, Subchapter C, §§11.42, 11.44 and 11.47, Off-Campus Rules for Texas State Technical College System with changes to the proposed text as published in the April 10, 2026, issue of the *Texas Register* (51 TexReg 2325). The rules will be republished. Sections 11.40, 11.41, 11.43, 11.45, 11.46, and 11.48 are adopted without changes and will not be republished.

The new rules are designed to streamline and consolidate processes related to notification and approval of off-campus courses, certificates, and programs for the Texas State Technical College System. The new rules replace existing rules in Chapter 4, Subchapter Q, relating to the delivery of off-campus courses, certificates, and programs for community and technical colleges, which will be repealed under separate rulemaking.

Texas Education Code (TEC), §61.002, charges the Coordinating Board with "the elimination of costly duplication in program offerings, faculties, and physical plants." TEC, §61.0512(a), requires the Coordinating Board approval for a new certificate or degree program. TEC, §61.0512(g), states that institutions may offer off-campus credit courses only with prior approval from the Coordinating Board.

Section 11.40, Definitions, provides words and terms relevant to approval of and delivery of certificate and degree programs at off-campus educational sites.

Section 11.41, Standards and Criteria for Delivery of Courses and Programs at an Off-Campus Educational Site, establishes required criteria that a technical college must comply with to offer off-campus education. These criteria align with state and federal standards and ensure that each student enrolled in an off-campus degree program has access to the same quality of education as on-campus students.

Section 11.42, Notification Required for Off-Campus Delivery of Courses, Certificates, and Less than Fifty Percent (50%) Content of a Degree Program, establishes procedures for a technical college to notify the Coordinating Board of its intent to offer off-campus education, including instruction that does not meet the fifty percent (50%) content threshold. The section also identifies which site types are not required as part of the notification. This requirement is new but ensures statutory compliance with as minimal data collection as possible.

Section 11.43, Approval Required for Off-Campus Delivery of a New Certificate or Degree Program, establishes approval procedures for a technical college seeking approval for a new certificate or degree program that will be offered at an off-campus location. This section does not represent a departure from current practice for technical colleges.

Section 11.44, Approval Required for Off-Campus Delivery of an Existing Certificate or Degree Program, establishes procedures for a technical college seeking approval for an existing certificate or degree program to be offered at an off-campus location. This requirement is not new and removes the institutional requirement to submit a 50-mile notification prior to submission to the Coordinating Board. The Coordinating Board will send out a regional informal notice for a 30-day comment period for an off-campus request, which it does with new degree programs.

Section 11.45, Modifications and Phase Out of An Off-Campus Certificate or Degree Program, establishes procedures for making a modification to a certificate and degree program offered at an off-campus educational site.

Section 11.46, Statutory Exemptions from Program Approval, delineates Texas counties that are exempt from program approval requirements.

Section 11.47, Requirements for an Employer Requested Program, establishes the procedures that a technical college must follow related to TEC, §51.981.

Section 11.48, Effective Dates of Rules, specifies that the rules are effective beginning September 1, 2026.

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

Section 11.42, Approval Required for Off-Campus Delivery of Courses, Certificates, and Less than Fifty Percent (50%) Content of a Degree Program, is amended to change the title to Notice Required for Off-Campus Delivery of Courses, Certificates, and Less than Fifty (50%) Content of a Degree Program to align with the rule.

Section 11.44(a) Approval by Notification, language replaced previous references to approval requirements in Subchapter 2L and Subchapter 2K.

Section 11.47 (a) - (b) was replaced by a new §11.47 (a) - (e) that details the requirements for programs requested by employers. Section 11.47 Requirements for an Employer Requested Program is amended to reduce confusion and clarify that the employer requested program under TEC, §51.981, does not require off-campus location approval from the Coordinating Board, but does require appropriate certificate or degree program approval.

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

*Comments from Alamo Colleges, Del Mar College, Midland College, North Central Texas College, and Victoria College:*

Comment: A concern that the proposed rules do not define regions for purpose of notification and opportunity for comment on proposed off-campus programs.

Response: The Coordinating Board acknowledges these concerns, and has made some adjustment to the language. The rules now clarify that the Coordinating Board has the authority to make informal notifications to institutions offering similar program in the region regarding new programs proposed by TSTC. This approach allows the Coordinating Board to honor variation across the state regarding what constitutes a region; for example, determining the region or area in a manner that reflects population distribution as well as geographic proximity.

Comment: A concern regarding §11.47 that the language conflicts with the provisions of TEC, §135.04(b) and §135.02. Specifically, that Texas State Technical College must establish before offering a program in the taxing district of a community college operating a career and technical program that the community college is incapable or unable to offer the program and that a need exists for the program. Additionally, TEC, §135.02 limits the location where Texas State Technical College may operate a campus or extension center.

Response: The Coordinating Board appreciates the feedback and considers that the requirements set forth in §11.47 and TEC, §51.981, only allows an institution to offer an employer requested program after they have requested in writing that the local institution provide the program and the local institution is unable to enter into an agreement within six weeks. Rule 11.47 mirrors the language proposed in Texas Administrative Code (TAC), §2.388 for community colleges and thus the employer sponsored program is not limited to TSTC.

Comment: A concern regarding TAC, §2.388(b) that the phrase "without prior approval of the Coordinating Board" be removed as it stands in tension with the remainder of the rule.

Response: While TAC, §2.388 is not part of this rule packet, substantially similar language is found in §11.47(a). The Coordinating Board modified the language in §11.47(a) to clarify that prior off-campus location approval of the Coordinating Board is not required for an employer requested program. This aligns with the remainder of §11.47 which require appropriate program approval for and employer requested program.

*Comments from Texas State Technical College:*

Comment: Texas State Technical College expressed concern that §11.44 and §11.47 could require employer-requested programs to go through an off-campus approval and regional comment process that could delay TSTC's ability to respond to employer needs, citing TEC, §51.981.

Response: THECB thanks Texas State Technical College for its comment and has amended the rules to clarify that the location of the employer requested program requires notification so long as it has requisite program approval.

The new sections are adopted under Texas Education Code, Sections 61.1002, 61.0512(a), and 61.0512(g), which provide the Coordinating Board with the authority to eliminate duplication in program offerings, faculties, and physical plans; requires board approval of new certificate and degree programs; and states that institutions may offer off-campus credit courses only with board prior approval, respectively.

The adopted new sections affect Texas Administrative Code, Chapter 11, Subchapter C.

*§11.42. Notification Required for Off-Campus Delivery of Courses, Certificates, and Less than Fifty Percent (50%) Content of a Degree Program.*

(a) The provisions under this section are subject to Notification Only approval as set out in Chapter 2, Subchapter L (relating to the Approval Process for a Career and Technical Education Certificate), and Subchapter K (relating to the Approval Process for an Applied Associate Degree) and §2.4 of this title, (relating to Types of Approval Required).

(b) Not less than once a year in a manner prescribed by the Board, a technical college shall notify the Coordinating Board of an off-campus educational site at which a career and technical education course, certificate, or less than fifty percent (50%) of required instruction and coursework for a degree program is offered.

(c) Internship, clinical, dual credit, and study abroad sites are exempt from the requirements of this section.

*§11.44. Approval Required for Off-Campus Delivery of an Existing Certificate or Degree Program.*

(a) A technical college shall request to offer an existing career and technical education certificate or degree program as an Off-Campus Degree Program or an Off-Campus Certificate Program. The provisions under this section are subject to approval by Notification only.

(b) The Coordinating Board shall provide informal notice and opportunity to comment to institutions of higher education that offer substantially similar programs in the region on the proposed off-campus delivery of the program in accordance with §2.7 of this title (relating to Informal Notice and Comment on Proposed Local Programs).

*§11.47. Requirements for an Employer Requested Program.*

(a) To establish an employer requested off-campus, non-credit, or credit program, an employer shall first solicit, in writing, an agreement with an institution of higher education within the uniform state service region or a public junior college's service area, as applicable, where the employer requested off-campus educational site is located.

(b) If the institution initially solicited for an agreement under subsection (a) of this section does not finalize an offer to enter into an agreement with the employer that meets the employer's specifications for the off-campus program within six weeks of the initial written offer, the employer may enter into an agreement with another institution of higher education without prior off-campus location approval of the Coordinating Board.

(c) If the employer requested off-campus program is a new degree or certificate program, a technical college shall request Coordinating Board approval of the new degree or certificate program, in accordance with the requirements of this chapter concerning approval of new degree and certificate programs, prior to delivery of the employer requested off-campus program.

(d) If the employer requested off-campus program is an existing program that will be modified for the purpose of delivery for the employer, a technical college shall follow the program modification requirements set forth in this chapter.

(e) A technical college shall notify the Coordinating Board of the employer-requested program.

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 13. FINANCIAL PLANNING
## SUBCHAPTER J. TEXAS FUND FOR GEOGRAPHY EDUCATION

**19 TAC §§13.180 - 13.186**

The Texas Higher Education Coordinating Board (Coordinating Board) adopts the repeal of Title 19, Part 1, Chapter 13, Subchapter J, §§13.180 - 13.186, Texas Fund for Geography Education, without changes to the proposed text as published in the April 10, 2026, issue of the *Texas Register* (51 TexReg 2327). The rules will not be republished.

This repeal removed unnecessary rules in the Texas Administrative Code that are no longer needed.

Texas Education Code, §61.027, authorizes the Coordinating Board to adopt and repeal rules. The fund to which the rules apply has been dissolved, and the Coordinating Board has determined that the rules are no longer required.

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 repeal rules.

The adopted repeal affects Texas Education Code, §§61.9681-61.9684.

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 T. COMMUNITY COLLEGE FINANCE PROGRAM: HIGH-DEMAND FIELDS

### 19 TAC §13.595, §13.597

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments to Title 19, Part 1, Chapter 13, Subchapter T, §13.595 and §13.597, Community College Finance Program: High-Demand Fields, without changes to the proposed text as published in the April 24, 2026, issue of the *Texas Register* (51 TexReg 2560). The rules will not be republished.

This amendment corrects a typographical error that incorrectly refers to Emerging Occupations rather than Essential Occupations and adds a reference to Chapter 13, Subchapter V and Subchapter W. This amendment also removes the word standard when referencing the Regional High-Demand Fields list.

Texas Education Code, §130A.101(c)(1), provides the Coordinating Board with the authority to make rules defining when a college is entitled to additional performance tier funding for awarding a credential in a high-demand occupation or appropriate proxy.

Rule 13.595(a), Essential Occupations, is amended to add a reference to §13.648, which references the current fiscal year 2026 rules in Subchapter V, and a reference to §13.668, which references the new rules beginning in fiscal year 2027 in Subchapter W. This amendment ensures that this subchapter is in line with the current rules in place for the Community College Finance Program.

Rule 13.595(b)(4) is amended to make grammatical changes to update the rule to Texas Register publishing requirements.

Rule 13.595(c)(5) is amended to correct a typographical error that incorrectly noted "Emerging Occupations" to "Essential Occupations", as this rule is specifically relating to Essential Occupations.

Rule 13.597(1), Effective Dates: High-Demand Fields, is amended to remove the word "Standard" before Regional High-Demand Fields List to eliminate confusion around the regional list the Coordinating Board provides alongside the statewide list at the beginning of the biennium. This will clarify that the Regional High-Demand Fields List refers to the high-demand occupations identified as published by the Coordinating Board and excludes additional occupations as determined through the Essential and Emerging Occupations processes.

No comments were received regarding the adoption of the amendments.

The amendments are adopted under Texas Education Code, Section 130A.101(c)(1), which provides the Coordinating Board with the authority to make rules defining when a college is entitled to additional performance tier funding for awarding a credential in a high-demand occupation or appropriate proxy.

The adopted amendment affects Texas Education Code, Section 130A.101.

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. COMMUNITY COLLEGE FINANCE PROGRAM: FORECASTING METHODOLOGY AND FINANCE POLICY

### 19 TAC §13.624

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments to Title 19, Part 1, Chapter 13, Subchapter U, §13.624, Forecasting Fundable Outcomes, without changes to the proposed text as published in the April 24, 2026, issue of the *Texas Register* (51 TexReg 2563). The rule will not be republished.

This amendment corrects an imbedded rule reference and remove the upper bounding parameter to increase the precision of the forecasting methodology to fund student outcomes for public community colleges.

Texas Education Code (TEC), §130A.005, provides the Coordinating Board with the authority to adopt rules and take other actions consistent with TEC, Chapter 61, Chapter 130, and Chapter 130A, to implement House Bill 8, 88th Texas Legislature, Regular Session. In addition, TEC, §130.355, permits the Coordinating Board to establish rules for funding workforce continuing education.

Rule 13.624(c), Forecasting Fundable Outcomes, is amended to correct a reference that was inadvertently not updated when Chapter 13, Subchapter U, was amended in August 2025.

Rule 13.624(e) is amended to remove the upper bounding limitation on the forecasted outcomes. This will ensure closer alignment to forecasted outcomes and outcome growth trends.

The following comments were received regarding the adoption of the amendments.

Comment: San Jacinto College noted that the proposed amendment to §13.624(e) still includes language about "maximum allowable change" even after the upper bound is removed and is inquiring if this phrase is necessary to remain in the rule language or if it needs to be revised.

Response: The THECB thanks San Jacinto College for the question. The "maximum allowable change" also applies to the lower bounded count if the bounding is being calculated on a prior year value that is also forecasted requiring "maximum allowable change" to remain in rule language.

Comment: San Jacinto College requests that THECB provide additional technical guidance and reproducible files for the 3-model forecasting methodology and any future iterations in advance of or concurrently with published funding calculations. Because forecasting affects foundation payments, dynamic adjustments, and institutional budget planning, colleges need enough information to validate and to explain THECB's calculations to the institutional governing board and local stakeholders. Providing reproducible forecasting files would strengthen confidence in the model and help institutions distinguish between performance-based changes and technical forecasting effects.

Response: The THECB thanks San Jacinto College for the request and while this request does not relate to the proposed changes in this subchapter, agrees with the sentiment expressed. The THECB provided additional guidance alongside the FY2026 funding model and plans to continue this practice moving forward.

Comment: San Jacinto College requests and recommends that THECB consider adding, for FY27 and all future years, an appropriation-sufficiency provision to the payment-schedule rules governing dynamic adjustments, settle-up adjustments, and future foundation payments rather than adopting multiple simultaneous methodology changes that may reduce the value of outcomes before the state has had sufficient time to evaluate the effect of prior HB8 implementation changes. Such a provision would align with a "do no harm" approach. It would allow the Legislature to see the actual cost of increased student success outcomes and determine whether additional appropriations are warranted, while avoiding methodology changes that may unintentionally suppress the very outcomes the HB8 finance system is designed to encourage.

Response: The THECB thanks San Jacinto College for the request. While the request does not relate to the proposed changes in this subchapter In partnership with stakeholders and the advisory committee, the THECB has thoughtfully made model adjustments in early implementation years to support and sustain the outcomes-based model in alignment with statutory purpose and legislative intent. THECB is held to responsibly disbursing appropriations determined by the legislature, and any additional funding needed for adjustments to the model above and beyond a given fiscal year appropriation is a decision made by the legislature.

Comment: The Texas Association of Business supports the removal of the 110 percent forecasting cap, which will improve the accuracy, stability and integrity of the funding model.

Response: The THECB thanks the Texas Association of Business and agrees with the sentiment expressed.

The amendment is adopted under Texas Education Code (TEC), Section 130A.005, which provides the Coordinating Board with the authority to adopt rules and take other actions consistent with TEC, Chapter 61, Chapter 130, and Chapter 130A to implement House Bill 8, 88th Texas Legislature, Regular Session. In addition, TEC, Section 130.355, permits the Coordinating Board to establish rules for funding workforce continuing education.

The adopted amendment affects TEC, Chapter 130A, and TEC, Sections 61.059 and 130.0031.

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 V. COMMUNITY COLLEGE FINANCE PROGRAM: BASE AND PERFORMANCE TIER METHODOLOGY FOR FISCAL YEAR 2026

### 19 TAC §§13.643, 13.644, 13.646

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments to Title 19, Part 1, Chapter 13, Subchapter V, §§13.643, 13.644 and 13.646, Community College Finance Program: Base and Performance Tier Methodology for Fiscal Year 2026, without changes to the proposed text as published in the April 24, 2026, issue of the *Texas Register* (51 TexReg 2564). The rules will not be republished.

These amendments correct typographical errors and codify that the Credential of Value Baseline list for associate degrees for fiscal year 2026 will not change after its adoption.

Texas Education Code (TEC), §130A.005, provides the Coordinating Board with the authority to adopt rules and take other actions consistent with TEC, Chapter 61, Chapter 130, and Chapter 130A to implement. House Bill 8, 88th Texas Legislature, Regular Session. In addition, TEC, §130.355, permits the Coordinating Board to establish rules for funding workforce continuing education.

Rule 13.643(17), Definitions, is amended to correctly reference definition (34) for Semester Credit Hour.

Rule 13.644(c)(2), Base Tier Allotment, is amended to replace the phrase "funding certified data" with "fundable certified data", which is defined in Chapter 13, Subchapter U. This ensures alignment of terms across the subchapters that govern the Community College Finance Program.

Rule 13.646(b)(2)(F), Performance Tier: Fundable Outcomes, is added to clarify that the associate degrees that are identified as credentials of value will remain unchanged for the duration of all payment calculations for fiscal year 2026. This codifies the current practice of not updating the list of fundable credentials after its initial adoption, and maintaining that list during any updates to the fiscal year 2026 funding model during subsequent fiscal years to allow for consistency in budgeting for the community colleges.

Minor non-substantive grammatical errors have been corrected. Capitalization of the word chapter when preceding a number and the word subchapter when preceding a letter has been standardized throughout the rules for consistency.

No comments were received regarding the adoption of the amendments.

The amendments are 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. HB 8, 88th Texas Legislature, Regular Session. In addition, Texas Education Code, Section 130.355, permits the Coordinating Board to establish rules for funding workforce continuing education.

The adopted amendments affect 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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## SUBCHAPTER W. COMMUNITY COLLEGE FINANCE PROGRAM: BASE AND PERFORMANCE TIER METHODOLOGY BEGINNING IN FISCAL YEAR 2027

**19 TAC §§13.660 - 13.670**

The Texas Higher Education Coordinating Board (Coordinating Board) adopts new rules in Title 19, Part 1, Chapter 13, Subchapter W, §§13.660, 13.662, 13.666, and 13.669, Community College Finance Program: Base and Performance Tier Methodology Beginning in Fiscal Year 2027, with changes to the proposed text as published in the April 24, 2026, issue of the *Texas Register* (51 TexReg 2571). The rules will be republished. Sections 13.661, 13.663 - 13.665, 13.667, 13.668 and 13.670 are adopted without changes and will not be republished.

Specifically, this new section clarifies that Chapter 13, Subchapter W, rules apply to the Coordinating Board's calculation of foundation payments made beginning in fiscal year 2027 and future adjustments of those payments under the dynamic funding model, and it also contains a number of modifications relating to specific issue areas, as detailed below. Subsequently, Subchapter V, has continued authority for fiscal year 2026 only.

The Coordinating Board initially adopted the regular rules relating to the community college finance system in April 2025 for fiscal year 2026, including Chapter 13, Subchapter V. Subchapter W will perform the same functions as Chapter 13, Subchapter V, which establishes all definitions, methods, weights and rates for the base and performance tiers, but is applied beginning with funding year FY2027. The adopted rules make the following substantive changes for fiscal year 2027 to the rules previously adopted by the Coordinating Board for fiscal year 2026:

1. Removal of the Third-Party Credentials as a fundable outcome, as the Coordinating Board does not have the data to analyze or calculate funding for this outcome and how those credentials relate to state education and workforce needs.

2. Modification of the Academically Disadvantaged weight from 25% to 20% in both the Base Tier and Performance Tier calculations.

3. Modification of the Economically Disadvantaged weight from 25% to 20% in both the Base Tier and Performance Tier calculations.

4. Modification of the Adult Learner weight from 50% to 40% in both the Base Tier and Performance Tier calculations.

6. Modification of the three-year average to a two-year average when calculating the funding amounts after eligible outcomes are weighted.

6. Further limits the number of outcomes eligible to be funded in which one outcome of each type can be earned within a 5-year time frame, with the exception of two Level 1 certificates or continuing education certificates being allowed.

Subchapter W, maintains continuity with existing rules in Subchapter V, while making the changes listed above and ensuring the applicability of the rules beyond the 2026 fiscal year.

Texas Education Code (TEC), §130A.005, provides the Coordinating Board with the authority to adopt rules and take other actions consistent with TEC, Chapter 61, Chapter 130, and Chapter 130A to implement HB 8, 88th Texas Legislature, Regular Session. In addition, TEC, §130.355, permits the Coordinating Board to establish rules for funding workforce continuing education.

Rule 13.660, Purpose, establishes that the purpose of Subchapter W, is to implement the community college finance system established by HB 8, 88th Texas Legislature, Regular Session.

Rule 13.661, Authority, establishes the portions of the TEC that authorize the Coordinating Board to adopt rules pertaining to community college finance.

Rule 13.662, Applicability, establishes that the Coordinating Board will apply the rules in effect for the fiscal year in which the funding was delivered, unless otherwise provided. This provision provides guidance to institutions on which rules will apply as the Coordinating Board iterates and refines the community college finance framework. This also clarifies that this subchapter is applicable beginning with fiscal year 2027 base tier and performance tier calculations for funding purposes.

Rule 13.663, Definitions, lists definitions pertinent to the community college finance system. This section provides only general meanings of terms and reserves substantive policy detail for the sections described below.

Rule 13.664, Base Tier Allotment, establishes the calculations used to determine Base Tier funding that the legislature entitled community colleges to receive under TEC, §§130A.051 - 130A.056. To summarize, Base Tier funding is calculated as Instruction and Operations (I&O) minus Local Share. If Local Share is greater than Instructions and Operations, then Base Tier funding is zero.

Rule 13.665, Performance Tier Funding, establishes the components of the Performance Tier portion of community college funding, codified under TEC, Chapter 130A, Subchapter C. Performance Tier funding consists of the number of Fundable Outcomes each community college produces, weighted according to certain Fundable Outcome Weights and multiplied by relevant rates. The Coordinating Board determines institutions' weighted

fundable outcome completions based on the better of the average of three fiscal years or the current fiscal year.

Rule 13.666, Performance Tier: Fundable Outcomes, describes the outcomes that are eligible to receive performance tier funding. Outcomes consist of the categories of 1) fundable credentials; 2) credential of value premium; 3) dual credit fundable outcomes; 4) transfer fundable outcomes; 5) structured co-enrollment fundable outcomes; and (6) Opportunity High School Diploma fundable outcomes. The paragraphs concerning §13.666 below focus on the specific ways in which this rule differs substantively from the analogous current rule governing fundable outcomes for fiscal year 2026.

Rule 13.666(b)(1)(D), removes the third-party credentials as a fundable outcome.

Rule 13.666(h)(3), extends the limitation of one outcome per student over a 5-year timeframe, with the exception of allowing for two certificate outcomes per student per year.

Rule 13.667, Performance Tier: Fundable Outcome Weights, establishes the weights that the Coordinating Board applies to the fundable outcomes achieved by students in the categories of economically disadvantaged, academically disadvantaged, and adult learners, for the purposes of performance tier funding, as required by Education Code, §130A.101. Institutions earn an additional weight of 20% for a fundable outcome when that outcome is achieved by an economically disadvantaged or academically disadvantaged student, and 40% for an adult learner.

Rule 13.668, Performance Tier: High-Demand Fields, establishes that an institution will receive additional weight for awarding credentials delivered in disciplines listed as a High-Demand Field. This is described in more detail in Subchapter T of this chapter.

Rule 13.669, Performance Tier: Rates, sets the monetary rates for each type of fundable outcome achieved by an institution. These fundable outcomes include the conferring of fundable credentials (including associate degrees, bachelor's degrees, and many types of workforce credentials), the credential of value premium, student completion of 15 dual credit hours, and successful student transfer to a public four-year institution. Rates are generally maintained for consistency with those set for fiscal year 2026 formula funding.

Rule 13.670, Shared Services Report, stipulates that smaller community college districts receiving a Base Tier scale adjustment must submit a report on their participation in shared services, and describes the content of this shared report. This provision carries out a statutory requirement for small schools to submit this report, codified in TEC, §130A.054(e).

Subsequent to the posting of the rules in the *Texas Register*, THECB staff recommend the following amendments:

Section 13.662 is amended to clarify that the applicability of this new subchapter's requirements will begin in fiscal year 2027, and the application of the subchapter's requirements to past years of historical data for the purpose of forecasting will begin in fiscal year 2027.

Section 13.666 is amended to make conforming language changes related to the transfer fundable outcome by including the phrase "or private or independent institution". This amendment maintains continuity with SB 1786, 89th Legislature, which added the private and independent institutions to the transfer fundable outcome.

Figure 19: TAC §13.669 is amended to remove third-party credentials from the list of rates, which conforms to the removal of third-party credentials as a fundable outcome.

The following comments were received regarding the adoption of the new rule.

Comment: Commit Partnership, Texas 2036, Texas PACE and San Jacinto College expressed concern regarding the reduction to the student weights, citing that reducing the financial incentive to serve these targeted populations is premature, and cuts against the original intent of the formula and sends the wrong long-term policy signal. By reducing the student weights, this would set a precedent for addressing future fiscal pressures using this mechanism rather than through evidence-based decisions. Recommendations from Commit Partnership and Texas PACE include prioritizing the Certificate Program Task Force evaluation of all currently fundable credentials within the formula to ensure they are supported by a sufficiently rigorous definition and evidentiary threshold for value and align with workforce needs.

Response: The THECB thanks Commit Partnership, Texas 2036, Texas PACE and San Jacinto College, and respectfully disagrees. A change in the student characteristic weight values is one of the tools the Legislature has provided to THECB to manage the fiscal impact of the community college finance (CCF) program during the legislative interim. However, the agency will also be considering legislative recommendations to further refine the CCF program and to manage its fiscal pressures. The purpose of the CCF program established by House Bill 8, codified in Education Code, §130A.001, is "to provide a modern and dynamic finance system that ensures that each public junior college has access to adequate state appropriations and local resources to support the education and training of the workforce of the future." The reduction of student characteristic weight values does not conflict with any element of this purpose.

Comment: Texas 2036, Texas PACE, and the Texas Association of Business commented their concerns on the removal of third-party credentials as a fundable outcome. We recognize and appreciate THECB's commitment to accountability and measurable workforce outcomes under the HB 8 framework. However, the current lack of comparable wage-record data for certain Third-Party Credentials should not automatically disqualify programs that are widely recognized and valued by employers across Texas industries. We recommend that THECB retain Third-Party Credentials as a fundable credential category, with funding withheld until their workforce value can be determined under the same standard applied to other short-term credentials. Removing Third-Party Credentials from the formula now treats a temporary data gap as a permanent policy conclusion, when the rule's structure should allow the policy to follow the evidence.

Response: The THECB thanks Texas 2036, Texas PACE and the Texas Association of Business for their comments. The agency disagrees that third party credentials should be retained as a fundable credential within the rule and disagrees that their removal from the rule is a permanent policy conclusion. The THECB does not currently have, or expect to have in the near future, the requisite underlying data, necessary to begin the implementation of third-party credentials as a fundable outcome. Retaining third-party credentials as a fundable outcome in the rule is a signal to colleges that they should plan for such programs, when as a practical matter, the agency does not expect that they will become a fundable outcome in the near

future. If the agency later decides to add third-party credentials back to the rule as a fundable outcome, it will do so in a targeted and deliberate manner and amend the rules accordingly.

Comment: Texas 2036, Texas PACE and the Texas Association of Business commented on their support of the proposed cap of seven credentials within five years, which limits funding to one credential of each type per student over a five-year period, with an exception allowing up to two Level I or Continuing Education Certificates in that same window. This change reinforces the aim of incentivizing true stackability and student progression toward credentials that confer higher potential earnings, and appropriately discourages duplicative credential accrual while still allowing meaningful workforce advancement opportunities.

Response: The THECB thanks Texas 2036, Texas PACE and the Texas Association of Business for their comment and agrees with the sentiment expressed.

Comment: San Jacinto College requests additional clarification in rule that the proposed five-year limitation will not be applied retroactively, including the first fiscal year of outcomes that will be included in the five-year limitation and confirmation that credentials or outcomes earned before that year will not count against a student's future eligibility.

Response: The THECB thanks San Jacinto College and agrees that the proposed applicability of the new subchapter's requirements need clarification. As a result of the comment, the THECB has amended §13.662, Applicability, to specify that the subchapter's requirements will begin in fiscal year 2027, and that the application of the subchapter's requirements to past years of historical data for the purpose of forecasting will begin in fiscal year 2027.

Comment: San Jacinto College asks how the THECB will notify institutions that a student has already generated a fundable outcome of the same type elsewhere so that institutions will be able to model funding risk before credentials are conferred.

Response: The THECB thanks San Jacinto College for their comment. The agency agrees with San Jacinto College that institutions need information as to the prevalence of duplicate credentials at their institution. The agency will seek input from the Standing Advisory Committee for Public Junior Colleges on this issue which may be handled via procedures implementing the rule change.

Comment: San Jacinto College requests that THECB distinguish between academic associate degrees and applied associate degrees when applying the proposed five-year limitation on funding for credentials of the same type. Associate of Arts and Associate of Science degrees serve a different educational purpose than Associate of Applied Science degrees. Academic associate degrees provide broader exposure to general education outcomes and core objectives, while applied associate degrees focus more heavily on technical and workforce preparation and typically include a smaller general education component. A student who completes both an academic associate degree and an Associate of Applied Science has therefore completed two structurally different credentials with distinct and complementary value. Treating both as a single associate-degree type could unintentionally under-recognize stackable pathways that combine transfer-oriented learning with applied workforce preparation.

Response: The THECB thanks San Jacinto College for the comment. The THECB declines to make any change to the rule text as a result of the comment. Although the agency agrees that there may be instances of two complementary associate degrees, it is the agency's view that such instances are not prevalent enough to codify as an exception to the limitation.

Comment: The Texas Association of Business commented their support for the change to a two-year averaging mechanism, which will improve predictability and reduce volatility within the funding model. This adjustment will help institutions better plan for workforce demand while minimizing fluctuations tied to temporary enrollment changes or short-term credential spikes.

Response: The THECB thanks the Texas Association of Business for their comment and agrees with the sentiment expressed.

Comment: Commit Partnership requests that the agency explore evidence-based policy levers to right-size funding and strengthen long-term alignment between postsecondary outcomes and workforce needs. An example could be accelerating the work of the Certificate Programs Task Force and prioritize this work to ensure decisions about high-quality short-term credentials are grounded in clear data and evidence that identifies which programs deliver meaningful outcomes for students and aligns with workforce demand.

Response: The THECB thanks Commit Partnership for their comment. The agency agrees with the importance of evidence-based policy and in strengthening the alignment between postsecondary outcomes and workforce needs. The agency has not made any change to the rule text as a result of the comment.

The new section is adopted under TEC, Section 130A.005, which provides the Coordinating Board with the authority to adopt rules and take other actions consistent with TEC, Chapter 61, Chapter 130, and Chapter 130A to implement Tex. HB 8, 88th Texas Legislature, Regular Session. In addition, TEC, Section 130.355, permits the Coordinating Board to establish rules for funding workforce continuing education.

The adopted new section affects TEC, Sections 28.0295, 61.003, 61.059, 130.003, 130.0031, 130.0034, 130.008, 130.085, 130.310, 130.352 and Chapter 130A.

*§13.660. Purpose.*

The purpose of this subchapter is to implement the Community College Finance Program authorized by Texas Education Code, Chapters 61, 130, and 130A.

*§13.662. Applicability.*

(a) Unless otherwise provided, the Coordinating Board shall apply this subchapter to the calculation of base tier funding beginning in fiscal year 2027 and to the calculation of performance tier funding beginning in fiscal year 2027.

(b) This subchapter applies to the calculation of all relevant historical data used to inform performance tier outcome counts achieved or forecast to be achieved, which are used as direct inputs to funding calculations beginning in fiscal year 2027.

*§13.666. Performance Tier: Fundable Outcomes.*

(a) This section contains definitions of Fundable Outcomes eligible for receiving funding through the Performance Tier. An institution's Performance Tier funding will consist of the count of Fundable Outcomes, multiplied by weights identified in §13.667 of this subchapter (relating to Performance Tier: Fundable Outcome Weights) as applicable, multiplied by the monetary rates identified in this subchapter. Only the Fundable Outcomes identified under paragraphs (1), (4), and (5) of this subsection are eligible to qualify for a Fundable Outcome Weight category identified in §13.667(a)(1), §13.667(a)(2), or

§13.667(a)(3) of this subchapter; all other Fundable Outcomes receive a weight of one under §13.667 of this subchapter. A credential's eligibility for funding as a fundable credential is subject to the limitations set out in subsection (h) of this section. Fundable Outcomes consist of the following categories:

(1) Fundable Credentials;

(2) Credential of Value Premium;

(3) Dual Credit Fundable Outcomes;

(4) Transfer Fundable Outcomes;

(5) Structured Co-Enrollment Fundable Outcomes; and

(6) Opportunity High School Diploma Fundable Outcomes.

(b) Fundable Credentials.

(1) A fundable credential is defined as any of the following:

(A) Any of the following credentials awarded by an institution that meets the criteria of a credential of value as defined in paragraph (2) or (3) of this subsection using the most recent data available prior to the year in which the credential that is otherwise eligible for funding is conferred and that the institution reported and certified to the Coordinating Board:

*(i)* An associate degree;

*(ii)* A baccalaureate degree;

*(iii)* A Level 1 or Level 2 Certificate;

*(iv)* An Advanced Technical Certificate; and

*(v)* A Continuing Education Certificate.

(B) An Occupational Skills Award awarded by an institution that the institution reported and certified to the Coordinating Board;

(C) An Institutional Credential Leading to Licensure or Certification (ICLC) not reported pursuant to subparagraph (B) of this paragraph and that the institution reported and certified to the Coordinating Board. The credential shall meet one of the following criteria:

*(i)* The credential includes no fewer than 144 contact hours or nine (9) semester credit hours; or

*(ii)* The credential is awarded in a high demand field, as defined in Coordinating Board rule, and includes no fewer than 80 contact hours or five (5) semester credit hours;

(2) Credential of Value Baseline - Associate Degree. A credential identified in paragraph (1)(A)(i) of this subsection must meet the Credential of Value Baseline criteria as provided by this paragraph to be eligible as a Fundable Outcome, except when that credential is conferred under the fields appearing in Figure: 19 TAC §13.666, according to the Classification of Instructional Programs promulgated by the U.S. Department of Education. When a credential identified in paragraph (1)(A)(i) of this subsection is conferred under fields appearing in Figure: 19 TAC §13.666, it must meet the Credential of Value Baseline criteria as provided by paragraph (3) of this subsection to be eligible as a Fundable Outcome. Excluding the credentials identified in Figure: 19 TAC §13.666, the baseline is met when a credential earned by a student would be expected to provide a positive return on investment and an individual self-sufficient wage within a period of five years.

Figure: 19 TAC §13.666(b)(2)

(A) A program demonstrates a positive return on investment when the majority of students statewide completing the credential, within a program area, are expected to accrue earnings greater than the cumulative median earnings of Texas high school graduates who do not hold additional credentials, plus recouping the net cost of attendance within five years after earning the credential.

(B) This calculation of return on investment shall include students' opportunity cost, calculated as the difference between median earnings for Texas high school graduates and estimated median earnings for students while enrolled for a period of two years.

(C) The Coordinating Board shall calculate the expected return on investment for each program based on the most current data available to the agency for the funding year for each program or a comparable program.

(D) The Coordinating Board shall determine whether a credential is expected to provide an individual self-sufficient wage within a period of five years by comparing the median real wage, as adjusted based on the Consumer Price Index calculated by the U.S. Bureau of Labor Statistics, earned by all recipients of the credential in their fifth year after receiving the credential according to all available data to the individual self-sufficient wage defined in accordance with §13.663(25) of this subchapter (relating to Definitions).

(E) In applying the methodology under this section to a program offering a credential in an emerging or essential high-demand field pursuant to §13.595(a) and (b) of this chapter (relating to Essential Occupations), the Coordinating Board may utilize other recent, relevant data, including:

*(i)* employer certifications provided under §13.595(b) of this chapter;

*(ii)* information on program design, including at minimum the cost and length of the program; and

*(iii)* any other information necessary for the Coordinating Bard to apply the methodology under this section to the program proposed in an emerging or essential high-demand field.

(F) The associate degrees identified as credentials of value under paragraph (2) of this subsection shall be used for any subsequent calculation for a given fiscal year.

(3) Credential of Value Baseline - Other Credentials. A credential identified in paragraph (1)(A)(ii), (iii), (iv), or (v) of this subsection and not subject to paragraph (2) of this subsection must meet the Credential of Value Baseline criteria as provided by this paragraph for eligibility as a Fundable Outcome. This baseline is met when a credential earned by a student would be expected to provide a positive return on investment within a period of ten years.

(A) A program demonstrates a positive return on investment when the majority of students statewide completing the credential, within a program area, are expected to accrue earnings greater than the cumulative median earnings of Texas high school graduates who do not hold additional credentials, plus recouping the net cost of attendance within ten years after earning the credential.

(B) This calculation of return on investment shall include students' opportunity cost, calculated as the difference between median earnings for Texas high school graduates and estimated median earnings for students while enrolled:

*(i)* Four years for baccalaureate degree holders;

*(ii)* Two years for associate degree holders; or

*(iii)* One year for holders of a Level 1 certificate, Level 2 certificate, Advanced Technical Certificate, or Continuing Education Certificate.

(C) The Coordinating Board shall calculate the expected return on investment for each program based on the most current data available to the agency for the funding year for each program or a comparable program.

(D) In applying the methodology under this section to a program offering a credential in an emerging or essential high-demand field pursuant to §13.595(a) and (b) of this chapter, the Coordinating Board may utilize recent, relevant data, including:

*(i)* employer certifications provided under §13.595(b) of this chapter;

*(ii)* information on program design, including at minimum the cost and length of the program; and

*(iii)* any other information necessary for the Coordinating Board to apply the methodology under this section to the program proposed in an emerging or essential high-demand field.

(4) Notwithstanding subsection (h) of this section, the following limitations apply to a fundable credential:

(A) For a credential under paragraph (1)(B) or (C) of this subsection, if more than one credential that the institution awarded to a student includes the same contact hours, the institution may only submit one credential for funding;

(B) If an institution awarded to a student a credential eligible for funding under paragraph (1)(B) and (C) of this subsection and those credentials share the same contact hours, the institution shall submit for funding only the credential awarded under paragraph (1)(B) of this subsection; and

(C) A fundable credential excludes a degree or certificate awarded to a non-resident student enrolled in a 100-percent online degree or certificate program as defined in §2.202(4)(A) of this title (relating to Definitions) for a student who resides out-of-state.

(c) Credential of Value Premium. An institution earns a Credential of Value Premium for each student who completes a Fundable Credential under subsection (b)(1)(A) of this section as follows:

(1) The student completes the credential of value on or before the target year for completion that, for the majority of students who complete comparable programs, would enable the student to achieve a positive return on investment within the timeframe specified for the program as described in paragraph (2) of this subsection.

(2) For each program, the Coordinating Board shall calculate the year in which the majority of comparable programs would be projected to have the majority of their students achieve a positive return on investment.

(3) Each year, the Coordinating Board shall publish a list of the target years for completion for each program.

(d) Dual Credit Fundable Outcome. An institution achieves a Dual Credit Fundable Outcome when a student has earned a minimum number of eligible dual credit semester credit hours, as defined in §13.663(16) of this subchapter (relating to Definitions).

(e) Transfer Fundable Outcome.

(1) An institution earns a transfer fundable outcome when a student enrolls in a general academic teaching institution (GAI), as defined in Texas Education Code, §61.003(3), or a private or independent institution of higher education as defined in Texas Education Code, §61.003(15), after earning at least 15 semester credit hours or semester credit hour equivalents (SCH) from a single public junior college district, subject to the following:

(A) The student is enrolled at a GAI or private or independent institution for the first time in the fiscal year for which the public junior college is eligible for a performance tier allocation, as established in this subchapter;

(B) No institution, including the institution that may be awarded a transfer fundable outcome, has achieved a structured co-enrollment fundable outcome or would otherwise achieve a structured co-enrollment fundable outcome in the same year on the basis of the student's participation in a structured co-enrollment program under subsection (f) of this section;

(C) The student earned a minimum of 15 SCHs from the public junior community college district seeking the transfer fundable outcome during the period including the fiscal year in which they enroll at the GAI or private or independent institution and the four fiscal years prior; and

(D) The attainment of the 15 SCHs satisfies the following restrictions:

*(i)* The transfer fundable outcome shall exclude the 15 SCHs that previously counted toward attainment of a dual credit fundable outcome for the student under subsection (d) of this section.

*(ii)* The transfer fundable outcome may include any SCHs earned by the student not previously counted toward a dual credit fundable outcome under subsection (d) of this section.

(2) Only one institution may earn a transfer fundable outcome for any individual student, except as provided by subparagraph (C) of this paragraph. An institution may earn the transfer fundable outcome only once per student. The Coordinating Board shall award the transfer fundable outcome in accordance with this subsection.

(A) If a student has earned 15 SCH at more than one institution prior to transfer to any GAI or private or independent institution, the Coordinating Board shall award the transfer fundable outcome to the last public junior college at which the student earned the 15 SCH eligible for funding under this section.

(B) If the student earned the 15 SCH at more than one institution during the same academic term, the Coordinating Board shall award the transfer fundable outcome to the public junior college:

*(i)* from which the student earned the greater number of the SCH that count toward the transfer fundable outcome during the academic term in which they earned the 15 SCH; or

*(ii)* if the student earned an equal number of SCH that count toward the transfer fundable outcome in the academic term in which the student earned the 15 SCH, to the institution from which the student earned a greater number of SCH that count toward the transfer fundable outcome in total.

(C) If a student has met the SCH requirements of subparagraph (B)(i) and (ii) of this paragraph at more than one public junior college, each public junior college may receive a transfer fundable outcome.

(f) Structured Co-Enrollment Fundable Outcome. An institution achieves a Structured Co-Enrollment Fundable Outcome when a student has earned a minimum number of eligible semester credit hours in a structured co-enrollment program that has been submitted and certified to the Coordinating Board as defined in §13.663(35) of this subchapter, and no institution, including the institution that may be awarded a structured co-enrollment fundable outcome, has been funded

for transfer fundable outcome on the basis of the student's enrollment in a GAI under subsection (e) of this section.

(g) Opportunity High School Diploma Fundable Outcome. An institution achieves an Opportunity High School Diploma Fundable Outcome when a student has completed the program and attained the credential, as defined in §13.663(33) of this subchapter. A student must earn the Opportunity High School Diploma on or after September 1, 2024, to qualify as a Fundable Outcome.

(h) Fundable Outcome Parameters. The Commissioner of Higher Education retains sole discretion for determining compliance with the requirements of this subsection. An institution shall only be funded for credentials reported in compliance with this section.

(1) For a credential conferred in fiscal year 2027 to be eligible for funding, an institution must have conferred the credential in and reported the credential for fiscal year 2027, and the recipient must have earned the credential no earlier than June 1, 2026.

(A) An associate degree that the institution conferred in and reported for fiscal year 2027 shall also be eligible for funding if the student earned the last semester credit hour of the associate degree through the successful completion of coursework at an institution other than the institution conferring and reporting the credential no earlier than May 1, 2026.

(B) A credential earned prior to September 1, 2026, but reported for fiscal year 2027 and satisfying all other requirements of this paragraph must be conferred no later than December 31, 2026, to be eligible for funding.

(2) The coordinating board shall fund the following credentials, provided they meet all other criteria of fundable credentials of value:

(A) An Occupational Skills Award, or an Institutional Credential Leading to Licensure or Certification;

(B) Level I Certificate or Continuing Education Certificate;

(C) Level II Certificate;

(D) an associate degree;

(E) an advanced technical certificate; and

(F) a baccalaureate degree.

(3) An institution may not receive funding for more than one credential of each type listed in paragraph (2)(A) - (F) of this subsection, where each subparagraph corresponds to a type, conferred to an individual student in a five-year reporting period, with the exception of paragraph (2)(B) of this subsection which allows funding for two credentials conferred to an individual student in a five-year reporting period.

(4) Subject to the limitations specified in this subsection, if an institution reports having conferred more than one credential of any single type listed in paragraph (2)(A) - (F) of this subsection to an individual student in a five-year reporting period with the exception of paragraph (2)(B) of this subsection which allows funding for two credentials conferred to an individual student in a five-year reporting period and conferred at least one such credential in a discipline designated as a high-demand field for that institution, as described in Subchapter T of this chapter (relating to Community College Finance Program: High-Demand Fields), the coordinating board shall fund a credential in the high-demand field.

*§13.669. Performance Tier: Rates.*

An institution receives the rate in Figure: 19 TAC §13.669 for each fundable outcome, weighted according to the applicable provisions of §13.666 and §13.667 of this subchapter (relating to Performance Tier: Fundable Outcomes and Performance Tier: Fundable Outcome Weights, respectively).

Figure: 19 TAC §13.669

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 July 23, 2026.

TRD-202603127
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Texas Higher Education Coordinating Board
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Proposal publication date: April 24, 2026
For further information, please call: (512) 427-6495

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# PART 2. TEXAS EDUCATION AGENCY

## CHAPTER 97. PLANNING AND ACCOUNTABILITY

## SUBCHAPTER EE. ACCREDITATION STATUS, STANDARDS, AND SANCTIONS

## DIVISION 1. STATUS, STANDARDS, AND SANCTIONS

### 19 TAC §97.1066

The Texas Education Agency (TEA) adopts an amendment to §97.1066, concerning campus repurposing and closure. The amendment is adopted without changes to the proposed text as published in the April 3, 2026 issue of the *Texas Register* (51 TexReg 2175) and will not be republished. The adopted amendment clarifies the conditions under which a district may close a campus and updates the provisions for assigning a new campus number to a repurposed campus.

REASONED JUSTIFICATION: Section 97.1066 outlines the process and procedures for campus closure and repurposing. The adopted amendment clarifies the conditions under which a district may close a campus. The amendment establishes these conditions based on the overall state accountability rating of the campus being closed and of the campus to which students of the closed campus will be assigned. The amendment also reserves the ability to repurpose a campus and assign a new county-district-campus number (CDCN) to circumstances in which the repurposed campus provides a distinctly different academic program and serves a majority of grade levels not served at the original campus, or when the campus is operated under contract with a non profit entity.

The deadline for submitting the information required by the commissioner to make a determination about assigning a new CDCN is May 31. Due to error by the Texas Register, the proposed rule published in the April 3, 2026 issue of the *Texas Register* inadvertently specified the due date as May 3 in subsection (f)(4)(C)(iv). A notice acknowledging the error is published in the In Addition section of this issue of the *Texas Register*.

SUMMARY OF COMMENTS AND AGENCY RESPONSES: The public comment period on the proposal began April 3, 2026, and ended May 4, 2026. Following are the comments received and agency responses.

Comment: Three school district employees and two organizations, the Texas Center for School Accountability and the Texas School Alliance, which together represent 51 school districts, raised concerns that several provisions of the proposal are overly restrictive. They noted impacts on local decision-making and flexibility as well as misalignment with accountability definitions. They argued that limiting transfers to A- or B-rated campuses excludes viable C-rated campuses, that a single D rating should not trigger heightened consequences, and that new campuses should not automatically inherit prior accountability history. They also requested clearer timelines, alignment with district budgeting cycles, and consideration of geographic constraints. Additionally, they noted that these provisions may discourage the closure of struggling campuses, penalize higher-performing schools, and hinder long-range facilities planning amid enrollment declines.

Response: The agency disagrees with the commenters' suggested revisions. The CDCN closure and potential reassignment provisions in the proposal are intended to encourage thoughtful student placement following campus closure, particularly in cases involving campuses with a history of academic challenges. These provisions are not intended to impose a one size fits all approach, nor to disregard practical constraints faced by districts. Districts retain flexibility to document local considerations and implementation factors as part of required consolidation planning, which allows the agency to review reassignment decisions in context rather than in isolation, while also allowing the agency to maintain continuity of ratings and subsequent interventions.

Comment: San Angelo Independent School District, three school district employees, and the Fast Growth School Coalition, which represents approximately 70 districts, asserted that campus closure and repurposing decisions are core responsibilities of local school boards and should reflect community context, enrollment trends, and facility needs. They argued that the proposal adds unnecessary state-level oversight, risks unintended accountability and community consequences, and undermines local flexibility without clear benefit.

Response: The agency disagrees. The purpose of the proposal is not to supplant local decision-making but to ensure that campus repurposing and closure actions taken within the accountability system are implemented in a manner that supports student outcomes and preserves transparency regarding accountability consequences. The rule is intended to provide clarity and consistency across districts while maintaining districts' ability to plan and implement closures based on local needs. Each school district will keep the autonomy to close campus facilities as needed, while allowing for agency oversight and alignment of accountability ratings as required by the rule.

Comment: A school district employee emphasized preserving an elected school board's authority to make consolidation decisions amid declining enrollment. The employee also requested specific guidance and flexibility for dropout recovery schools, which serve unique student populations and face heightened accountability pressure absent clear consolidation pathways.

Response: The agency disagrees. The purpose of the proposal is not to supplant local decision-making but to ensure that campus repurposing and closure actions taken within the accountability system are implemented in a manner that supports student outcomes and preserves transparency regarding accountability consequences. The rule is intended to provide clarity and consistency across districts while maintaining districts' ability to plan and implement closures based on local needs. Each school district will keep the autonomy to close campus facilities as needed, while allowing for agency oversight and alignment of accountability ratings as required by the rule. Dropout recovery schools will be treated in the same manner as other campuses under this rule. The district will have the autonomy to close schools, while the agency retains the authority of the CDCN and interventions.

Comment: Good Reason Houston supported the consolidation plan requirement but raised concerns about classifying C-rated campuses with D and F campuses for CDCN reassignment. They warned this may discourage placement in stronger C campuses, particularly in urban districts facing enrollment decline, and create incentives counter to student outcomes.

Response: The agency disagrees. The purpose of the proposal is not to supplant local decision-making but to ensure that campus repurposing and closure actions taken within the accountability system are implemented in a manner that supports student outcomes and preserves transparency regarding accountability consequences. The rule is intended to provide clarity and consistency across districts while maintaining districts' ability to plan and implement closures based on local needs. Each school district will keep the autonomy to close campus facilities as needed, while allowing for agency oversight and alignment of accountability ratings as required by the rule.

STATUTORY AUTHORITY. The amendment is adopted under Texas Education Code (TEC), §39A.111, which grants the commissioner of education the authority to close a campus that has received five consecutive school years of unacceptable performance ratings; TEC, §39A.113, which establishes requirements for repurposing a closed campus; and TEC, §39A.115, which grants the commissioner rulemaking authority over TEC, Chapter 39A, Subchapter C.

CROSS REFERENCE TO STATUTE. The amendment implements TEC, §§39A.111, 39A.113, and 39A.115.

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 July 27, 2026.

TRD-202603147
Cristina De La Fuente-Valadez
Director, Rulemaking
Texas Education Agency
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Proposal publication date: April 3, 2026
For further information, please call: (512) 463-9526

# TITLE 26. HEALTH AND HUMAN SERVICES

## PART 1. HEALTH AND HUMAN SERVICES COMMISSION

## CHAPTER 749. MINIMUM STANDARDS FOR CHILD-PLACING AGENCIES

The executive commissioner of the Texas Health and Human Services Commission (HHSC) adopts the repeal of §§749.801, 749.811, 749.813, 749.831, 749.833, 749.861, 749.863 - 749.865, 749.867 - 749.869, 749.881 - 749.883, 749.885, 749.887, 749.889, 749.911, 749.913, 749.915, 749.930 - 749.933, 749.935, 749.937, 749.939, 749.941, 749.943 - 749.945, 749.947, 749.949, 749.1001, 749.1003, 749.1005, 749.1007, 749.1009, 749.1011, 749.1013, 749.1015, 749.1017, 749.1019, 749.1021, 749.1101, 749.1103, 749.1105, 749.1107, 749.1109, 749.1111, 749.1113, 749.1115, 749.1131, 749.1133, 749.1135, 749.1137, 749.1151, 749.1153, 749.1155, 749.1181, 749.1183, 749.1185, 749.1187, 749.1189, 749.1251, 749.1253, 749.1255, 749.1281, 749.1291, 749.1301, 749.1305, 749.1307, 749.1309, 749.1311 - 749.1313, 749.1315, 749.1317, 749.1319, 749.1321, 749.1323, 749.1331, 749.1333, 749.1335 - 749.1337, 749.1339, 749.1361, 749.1363, 749.1365, 749.1367, 749.1369, 749.1371, 749.1373, 749.1377, 749.1401, 749.1403, 749.1405, 749.1409, 749.1411, 749.1413, 749.1415, 749.1417, 749.1421, 749.1423, 749.1425, 749.1427, 749.1429, 749.1431, 749.1433, 749.1435, 749.1437, 749.1461, 749.1463, 749.1469, 749.1501, 749.1503, 749.1521, 749.1541, 749.1543, 749.1545, 749.1561, 749.1563, 749.1565, 749.1581, 749.1583, 749.1603, 749.1605, 749.1607, 749.1609, 749.1611, 749.1641, 749.1643, 749.1645, 749.1647, 749.1671, 749.1673, 749.1675, 749.1801, 749.1803, 749.1805, 749.1807, 749.1809, 749.1811, 749.1813, 749.1815, 749.1817, 749.1819, 749.1821, 749.1841, 749.1861, 749.1863, 749.1865, 749.1891, 749.1893, 749.1895, 749.1921, 749.1923, 749.1925, 749.1927, 749.1951, 749.1953, 749.1955, 749.1957, 749.1959, 749.1961, 749.2001, 749.2051, 749.2053, 749.2055, 749.2059, 749.2061, 749.2063, 749.2101, 749.2103, 749.2105, 749.2107, 749.2151, 749.2153, 749.2201, 749.2203, 749.2205, 749.2231, 749.2233, 749.2281, 749.2283, 749.2301, 749.2303, 749.2305, 749.2307, 749.2331, 749.2333, 749.2335, 749.2337, 749.2339, 749.2381, 749.2383, 749.2401, 749.2403, 749.2405, 749.2407, 749.2445, 749.2447, 749.2449, 749.2451, 749.2453, 749.2470, 749.2473, 749.2475, 749.2477, 749.2479, 749.2481, 749.2483, 749.2485, 749.2487 - 749.2489, 749.2491, 749.2493, 749.2495, 749.2497, 749.2520, 749.2521, 749.2523, 749.2525 - 749.2527, 749.2529, 749.2531, 749.2533, 749.2535, 749.2537, 749.2539, 749.2550, 749.2551, 749.2555, 749.2557, 749.2591, 749.2593, 749.2595, 749.2597, 749.2599, 749.2601, 749.2603, 749.2605, 749.2607, 749.2621, 749.2623, 749.2625, 749.2627, 749.2629, 749.2631, 749.2633, 749.2635, 749.2651, 749.2653, 749.2655, 749.2801, 749.2803, 749.2805, 749.2807, 749.2809, 749.2811, 749.2813 - 749.2815, 749.2817, 749.2819, 749.2821, 749.2823, 749.2825, 749.2901 - 749.2905, 749.2907 - 749.2909, 749.2911, 749.2913, 749.2915, 749.2917, 749.2931, 749.2961, 749.2963, 749.2965, 749.2967, 749.3021, 749.3023, 749.3025, 749.3027, 749.3029, 749.3031, 749.3033, 749.3035, 749.3037, 749.3039, 749.3041, 749.3043, 749.3061, 749.3063, 749.3065, 749.3067, 749.3069, 749.3071, 749.3073, 749.3075, 749.3077, 749.3079, 749.3081, 749.3101, 749.3103, 749.3105, 749.3107, 749.3109, 749.3111, 749.3131, 749.3133, 749.3135, 749.3137, 749.3139, 749.3141, 749.3143, 749.3145, 749.3147, 749.3149, and 749.3151; and new §§749.801, 749.803, 749.805, 749.807, 749.821, 749.823, 749.825, 749.831, 749.901, 749.903, 749.905, 749.921, 749.923, 749.925, 749.927, 749.929, 749.931, 749.933, 749.935, 749.937, 749.951, 749.953, 749.955, 749.957, 749.959, 749.973, 749.975, 749.977, 749.1001, 749.1003, 749.1005, 749.1007, 749.1009, 749.1011, 749.1013, 749.1015, 749.1017, 749.1019, 749.1031, 749.1033, 749.1035, 749.1037, 749.1051, 749.1053, 749.1061, 749.1063, 749.1065, 749.1101, 749.1103, 749.1105, 749.1107, 749.1109, 749.1201, 749.1203, 749.1205, 749.1207, 749.1209, 749.1211, 749.1213, 749.1215, 749.1217, 749.1231, 749.1233, 749.1235, 749.1237, 749.1251, 749.1253, 749.1301, 749.1303, 749.1305, 749.1307, 749.1401, 749.1403, 749.1405, 749.1407, 749.1409, 749.1411, 749.1413, 749.1415, 749.1417, 749.1419, 749.1421, 749.1423, 749.1501, 749.1503, 749.1505, 749.1601, 749.1603, 749.1605, 749.1607, 749.1621, 749.1623, 749.1625, 749.1631, 749.1633, and 749.1635.

New §§749.801, 749.803, 749.805, 749.807, 749.821, 749.831, 749.901, 749.923, 749.925, 749.929, 749.931, 749.935, 749.937, 749.951, 749.953, 749.955, 749.957, 749.973, 749.1001, 749.1003, 749.1005, 749.1007, 749.1009, 749.1013, 749.1017, 749.1035, 749.1051, 749.1101, 749.1103, 749.1109, 749.1201, 749.1211, 749.1213, 749.1215, 749.1231, 749.1235, 749.1251, 749.1303, 749.1419, 749.1501, 749.1505, 749.1601, and 749.1603 are adopted with changes to the proposed text as published in the February 13, 2026, issue of the *Texas Register* (51 TexReg 815). These rules will be republished.

The repeal of §§749.801, 749.811, 749.813, 749.831, 749.833, 749.861, 749.863 - 749.865, 749.867 - 749.869, 749.881 - 749.883, 749.885, 749.887, 749.889, 749.911, 749.913, 749.915, 749.930 - 749.933, 749.935, 749.937, 749.939, 749.941, 749.943 - 749.945, 749.947, 749.949, 749.1001, 749.1003, 749.1005, 749.1007, 749.1009, 749.1011, 749.1013, 749.1015, 749.1017, 749.1019, 749.1021, 749.1101, 749.1103, 749.1105, 749.1107, 749.1109, 749.1111, 749.1113, 749.1115, 749.1131, 749.1133, 749.1135, 749.1137, 749.1151, 749.1153, 749.1155, 749.1181, 749.1183, 749.1185, 749.1187, 749.1189, 749.1251, 749.1253, 749.1255, 749.1281, 749.1291, 749.1301, 749.1305, 749.1307, 749.1309, 749.1311 - 749.1313, 749.1315, 749.1317, 749.1319, 749.1321, 749.1323, 749.1331, 749.1333, 749.1335 - 749.1337, 749.1339, 749.1361, 749.1363, 749.1365, 749.1367, 749.1369, 749.1371, 749.1373, 749.1377, 749.1401, 749.1403, 749.1405, 749.1409, 749.1411, 749.1413, 749.1415, 749.1417, 749.1421, 749.1423, 749.1425, 749.1427, 749.1429, 749.1431, 749.1433, 749.1435, 749.1437, 749.1461, 749.1463, 749.1469, 749.1501, 749.1503, 749.1521, 749.1541, 749.1543, 749.1545, 749.1561, 749.1563, 749.1565, 749.1581, 749.1583, 749.1603, 749.1605, 749.1607, 749.1609, 749.1611, 749.1641, 749.1643, 749.1645, 749.1647, 749.1671, 749.1673, 749.1675, 749.1801, 749.1803, 749.1805, 749.1807, 749.1809, 749.1811, 749.1813, 749.1815, 749.1817, 749.1819, 749.1821, 749.1841, 749.1861, 749.1863, 749.1865, 749.1891, 749.1893, 749.1895, 749.1921, 749.1923, 749.1925, 749.1927, 749.1951, 749.1953, 749.1955, 749.1957, 749.1959, 749.1961, 749.2001, 749.2051, 749.2053, 749.2055, 749.2059, 749.2061, 749.2063, 749.2101, 749.2103, 749.2105, 749.2107, 749.2151, 749.2153, 749.2201, 749.2203, 749.2205, 749.2231, 749.2233, 749.2281, 749.2283, 749.2301, 749.2303, 749.2305, 749.2307, 749.2331, 749.2333, 749.2335, 749.2337, 749.2339, 749.2381, 749.2383, 749.2401, 749.2403, 749.2405, 749.2407, 749.2445, 749.2447, 749.2449, 749.2451, 749.2453, 749.2470, 749.2473, 749.2475, 749.2477, 749.2479, 749.2481, 749.2483, 749.2485, 749.2487 - 749.2489, 749.2491, 749.2493, 749.2495, 749.2497, 749.2520, 749.2521, 749.2523, 749.2525 - 749.2527, 749.2529, 749.2531, 749.2533, 749.2535, 749.2537, 749.2539, 749.2550, 749.2551, 749.2555, 749.2557, 749.2591, 749.2593, 749.2595, 749.2597, 749.2599, 749.2601, 749.2603, 749.2605, 749.2607, 749.2621, 749.2623, 749.2625, 749.2627, 749.2629, 749.2631, 749.2633, 749.2635, 749.2651, 749.2653, 749.2655, 749.2801, 749.2803, 749.2805, 749.2807, 749.2809, 749.2811, 749.2813 - 749.2815, 749.2817,

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BACKGROUND AND JUSTIFICATION

The repeals and new sections are necessary to (1) comply with Texas Human Resources Code (HRC) §42.042(b); (2) implement an HHSC regulatory reform initiative created by Senate Bill (SB) 593, 88th Legislature, Regular Session, 2023; (3) implement House Bill (HB) 1403, 89th Legislature, Regular Session, 2025; and (4) implement HB 2789, 89th Legislature, Regular Session, 2025.

HRC §42.042(b) requires HHSC Child Care Regulation (CCR) to conduct a comprehensive review of minimum standards at least once every six years. SB 593 required HHSC to contract with an independent entity to assess HHSC rules, minimum standards, Texas Department of Family and Protective Services (DFPS) contract requirements, and standards or oversight requirements prescribed by law. The independent contractor completed an assessment and found that existing minimum standards were overly detailed, repetitive, or administrative in nature and could be streamlined while maintaining protections for the health and safety of children in care.

HB 1403 amended HRC §42.042 to ensure the confidentiality of foster homes related to firearms. HRC §42.042 prohibits HHSC or a child-placing agency (CPA) from requiring a foster home to (1) disclose the specific types of firearms that are present in the home; or (2) notify the CPA if there is any change in the types of firearms present in the home.

Section 2 of HB 2789 amended HRC §42.043 to remove the requirement for a child in care to have a tuberculosis test.

Additionally, the rules are in plain language to improve understanding and effectiveness.

COMMENTS

The 31-day comment period ended March 16, 2026.

During this period, HHSC received comments regarding the proposed rules from 16 commenters. HHSC received comments from The Sanctuary Foster Care Services, Alliance for Children, Arrow Child & Family Ministries, Texas Alliance of Child and Family Services, Texas Council on Family Violence, and 11 individuals. A summary of comments relating to the rules and HHSC's responses follows.

Comment: One commenter noted that the subchapter titles needed to be updated in the proposed rules as published in the *Texas Register*.

Response: HHSC acknowledges the comment. The subchapter titles will be updated in Texas Administrative Code (TAC) when the new rules become effective.

Comment: Two commenters expressed support for the proposed rule changes and approved the comprehensive, multi-year effort to modernize foster home minimum standards. The commenters noted that the revisions simplify and streamline requirements, reduce prescriptiveness, and reflect an approach to regulatory reform using earlier rule drafts, workgroup discussions, and input from the organization's regulatory committee. The commenters appreciated the reduced detail for physical home environment requirements, increased flexibility for providers and foster families, and better-aligned standards with principles of normalcy and prudent parenting. The commenters also highlighted reductions in administrative burden, which includes eliminating the 72-hour service plan requirement, extending the orientation timeline to seven days, and allowing greater efficiency in staff visits. Lastly, the commenters support changes to medication administration requirements, noting that removing documentation requirements for non-prescription medications for youth over age five reduces unnecessary paperwork while maintaining appropriate oversight.

Response: HHSC acknowledges this comment.

Comment: One commenter wanted HHSC to allow extended implementation and monitoring timelines due to the scope of the proposed changes. While supporting the reforms and kin-specific verification standards, the commenter noted that providers are still implementing those earlier changes and will now face successive major revisions to foster home standards, CPA administrative standards, and, for some, general residential operations (GRO) standards. The commenter stated that implementation requires extensive updates to training, curricula, policies, educational materials, quality assurance systems, and monitoring tools, affecting nearly all aspects of CPA operations. The commenter noted that because HHSC took more than a year to develop the proposed rules following SB 593, CPAs will need even more time, training, and technical assistance to implement them. The commenter cited legislative direction to solicit cost, benefit, and implementation impact input from regulated entities and emphasized that provider feedback, especially on implementation timelines and barriers, should be given significant weight.

Response: HHSC acknowledges the comment. Throughout the rule development process, HHSC collected stakeholder feedback through workgroup meetings, public comments, and other stakeholder engagement opportunities. HHSC considered this feedback in developing the adopted rules. HHSC does not anticipate that the rules for this project will impose additional costs for operations. The adopted rules simplify, consolidate, and reorganize requirements while maintaining protections for children in care. For this reason, HHSC has determined that no rule changes are necessary in response to the comment. After the rule changes are adopted, HHSC will inform operations of the adopted rules and when the rules will be effective to support implementation.

Comment: One commenter asked for general clarification for definitions in the proposed rules, emphasizing that clear and pre-

cise definitions are essential to ensure consistent interpretation and application statewide.

Response: HHSC acknowledges the comment. The commenter does not identify specific definitions that require clarification. Definitions for CPAs are in §749.43, which was not part of this rule project.

Comment: One commenter raised concern about subjective language in the proposed rules, noting that terms like "clean" and "inaccessible" could lead to inconsistent interpretation and enforcement. The commenter recommended clarifying these terms or replacing them with more objective criteria to ensure consistency across providers and regulators.

Response: HHSC acknowledges the comment and declines to revise the rules. HHSC determines that the standard meanings for the terms the commenter mentioned are sufficient. Terms like "clean" and "inaccessible" are intended to provide the flexibility that providers need to meet the intent of the standard without being unnecessarily prescriptive.

Comment: Two commenters stated that the proposed rules do not clearly explain how the new minimum standards will be weighted and urged HHSC to provide an opportunity for public input on those weights. The commenters stated that public input gives providers with direct responsibility for 24-hour care and supervision of children an opportunity to share their expertise and best practices on which deficiencies are risks to child safety.

Response: HHSC disagrees with the comment and declines to revise the rules in response to this comment. During a public comment period, HHSC considered stakeholder input, including recommendations related to rule weights, before assigning weights based on the level of risk of harm to children associated with noncompliance.

Comment: The commenter urges HHSC to add a stand-alone rule addressing Interstate Compact for the Placement of Children (ICPC) foster home placements, noting that existing standards do not adequately cover records and activities outside a CPA's authority. The commenter emphasized that the need for a specific ICPC provision remains despite updates to other standards. If it cannot be included in the current proposal, the commenter strongly encouraged addressing it in the upcoming comprehensive review project for 26 TAC Chapter 749 or through a separate update to the kin-specific rules in Subchapter W of Chapter 749.

Response: HHSC disagrees with the comment, and no new rule is needed. Rules relating to ICPCs are in 40 TAC Chapter 700, Subchapter S, which the Texas Department of Family and Protective Services maintains.

Comment: Regarding §749.821 and §749.823, two commenters asked for clarification on employee training requirements, including compliance expectations and required documentation. The commenters also expressed concern about the employee orientation requirement, noting that orientation cannot reasonably occur before an employee begins work and recommending a 30-day timeframe to complete orientation to align with typical agency scheduling practices.

Response: HHSC agrees with the comment and amended §749.821 to clarify that employee orientation takes place "before beginning job duties," which is necessary to make sure employees are prepared to do their jobs and follow minimum standards. CPA employees are required to comply with all training requirements in new Subchapter F, Training Requirements. Employee training documentation is in new Subchapter F, Division 3, Employee and Caregiver Training Documentation Requirements.

Comment: Regarding §749.823, one commenter requested clarification of the definition of "caregiver," including whether related definitions have changed under the new standards and apply to adoptive parents.

Response: HHSC disagrees with the comment and determines that no rule change is needed because the definition for "caregiver" appears in §749.43, which was not part of this rule project. The existing rule already specifies that an adoptive parent is not considered a caregiver.

Comment: Regarding §749.823(d) and §749.831(a) and (e), one commenter was concerned that the proposed language appears to require only cardiopulmonary resuscitation (CPR) and first aid training before an employee acts as a caregiver. The commenter recommended replacing "job-related" with broader language such as "relevant skills" to clearly apply to both employees and caregivers. The commenter suggested changing "before" to "on or before" to avoid shortening the annual renewal period.

Response: HHSC disagrees with the comment. Caregivers, including employees, must follow all training requirements in new Subchapter F, Division 1, Caregiver Training Requirements. The term "job-related" is used correctly. The rules require employees to complete CPR and first aid training before acting as caregivers. However, HHSC did revise §749.831(e) by changing "renew before the expiration date" to "renew by the expiration date."

Comment: Regarding §749.825 and §748.831, two commenters opposed the proposed CPA employee annual training requirements, stating the requirements are overly burdensome and duplicative of existing professional licensing requirements. The commenters cited concerns about the lack of training hour carryover, misalignment with biennial license renewal cycles, and increased administrative tracking-particularly for professionals holding multiple licenses or working across agencies. The commenters also criticized assumptions that training must be conducted in-house, warning this would disproportionately burden smaller agencies and disregard valid external professional training already completed by licensed staff.

Response: HHSC disagrees and declines to revise the rules in response to this comment. Sections 749.825 and 749.831 do not require training to be conducted in-house or prohibit the use of external or licensure-based training. The rules require that training be job-related, include an assessment of learning, and be consistently documented and tracked. These requirements are necessary to ensure staff competency, accountability, and child safety and to allow CPAs flexibility to align training with existing professional education requirements, provided the training meets the rule criteria.

Comment: Regarding §749.901(b), one commenter recommended clarifying and tying the language to §749.933 or otherwise defining what constitutes a "major life change" to ensure the list is exhaustive.

Response: HHSC agrees with the comment and defines a "major life change" for foster care services in §749.901.

Comment: Regarding §749.901(b), one commenter noted that providers have received citations for home changes that do not meaningfully affect verification, such as adding a swimming pool. The commenter asked for distinctions between when an addendum is sufficient and when a full update to the home screening

is required, emphasizing that these concepts need clearer definition to prevent inconsistent enforcement.

Response: HHSC disagrees with the comment and declines to revise the rule in response to this comment. A change such as the addition of a swimming pool affects the home's verification because §749.923 requires documentation of outdoor areas, including bodies of water, and an evaluation of safety risks in the home. Section 749.901(b) requires the CPA to complete an addendum when a change affects the home verification, and the scope of the update depends on the nature of the change. Section 749.1101(c) describes changes that invalidate the verification and require the CPA to provide a new or temporary verification.

Comment: Regarding §749.901(c)(4), two commenters requested clarification of the home screening standard, specifically whether the requirement to document relationship history applies only to current relationships or also includes past relationships, and the extent to which prior relationships must be included. The commenters recommended rewording the paragraph for clarity by referencing "family relationships" earlier in the rule, noting that listing marital and similar relationships first is confusing.

Response: HHSC agrees with the commenters and edited §749.901(c)(4), updating history of interpersonal relationships from "current" to "former and current." This change requires prospective foster parents to discuss prior relationships to the extent those relationships involved a shared domestic life or family relationship. HHSC also references "family relationships" earlier in the rule.

Comment: Regarding §749.901(c)(6)(A)(ii), one commenter recommended adding language to explicitly exclude biological parents or family members of a child in care from background or registry check requirements when their presence in the home is permitted under the child's service plan.

Response: HHSC disagrees with the comment and declines to revise the rule in response to this comment. HRC §42.056 does not provide exceptions based on biological or familial relationship or a child's service plan. HHSC does not have the authority to waive statutory requirements.

Comment: Regarding §749.901(c)(7)(B), two commenters recommended removing the proposed domestic violence reporting requirement, asserting that it is an overreach. The commenters requested clarification on the purpose and scope of the requirement, including what incidents must be reported, whether all incidents must be reported regardless of severity, whether existing reporting systems already address these concerns, and how reports submitted to HHSC within the two-day timeframe would be used and handled. The commenters also questioned why a CPA would be required to report domestic violence history to CCR for a home the CPA does not verify and expresses concern that CCR lacks authority over, and a need for, such information.

Response: HHSC disagrees with the comments and declines to revise the rule in response to these comments. Family violence reporting is required by statute. HRC §42.0449 authorizes HHSC to adopt rules specifying the actions a child-placing agency must take after receiving notice of a family violence report to ensure the health, safety, and welfare of each child in a foster home. In addition, HRC §42.0561 requires a CPA to obtain information relating to each family violence report. This requirement is necessary to allow CCR to carry out its statutorily assigned oversight responsibilities and aligns with the requirement in §749.4503(c)(7) for CPAs to report information obtained about a kinship foster family's domestic violence history. HHSC does not have the authority to waive statutory requirements.

Comment: Regarding §749.901(c)(7)(B), one commenter stated that the phrase "as applicable" is unclear and requested clarification on what information must be reported and under what circumstances.

Response: HHSC agrees with the comment and revised §749.901(c)(7)(B) by replacing the phrase "as applicable" with "if any" for clarity.

Comment: Regarding §749.901(c)(7)(B) and §749.1103(b)(3), one commenter supported HHSC safety goals and recommended requiring CPA employees to provide family violence resource information to all prospective caregivers during initial foster home screening. While supporting the consolidation of screening requirements in proposed §749.901 and HHSC recognition that family violence should be considered in caregiver assessments, the commenter expressed concern that the proposal focuses on reporting family violence to CCR without addressing safe responses when violence is identified. The commenter noted that disclosure can increase risk for survivors, especially if certification is denied and support is lost. Citing §749.1103 and recent and upcoming victim-protection laws, including HB 1610 and the Natalia Cox Act, the commenter recommended a universal approach requiring CPA employees to provide written family violence resource information to all applicants at screening, which reduces risk by avoiding singling out survivors and allows safer access to resources.

Response: HHSC disagrees with the comment and declines to revise the rules in response to this comment. The adopted rules require CPAs to obtain, assess, and document information relevant to a prospective foster home's suitability for verification, including information regarding interpersonal relationships and domestic violence history. CPAs must report domestic violence history to CCR per §749.901 and evaluate family violence concerns during ongoing compliance evaluations under §749.1103. The adopted rules establish minimum standards and provide CPAs flexibility to determine what additional information, resources, and supports are appropriate based on the circumstances of a particular foster home and the needs of the individuals involved. A CPA may base implementation decisions on its assessment of the foster home, which may include providing family violence resource information, including HHSC and DFPS resources, to prospective or verified foster parents when the CPA determines it is appropriate.

Comment: Regarding §749.901(c)(14), one commenter noted that language related to "before approving and verifying" is duplicated in the rule and suggests removing one instance to improve clarity and avoid unnecessary repetition.

Response: HHSC agrees with the comment and revised §749.901(c)(14) to remove the duplication.

Comment: Regarding §749.921(a), one commenter acknowledged that CPAs may impose more stringent standards under the rule but expressed concern that some CPAs may be less cautious due to a lack of institutional memory regarding past challenges associated with verifying foster homes where the parents are under 21.

Response: HHSC acknowledges the comment. Section 749.921(a) establishes the minimum age requirement for a foster parent while allowing a CPA to impose more restrictive

requirements when appropriate. The adopted rules require CPAs to assess the suitability of each prospective foster home, including the characteristics, capabilities, and circumstances of the prospective foster parents, before making a verification decision. The minimum age requirement is consistent with the National Model Foster Family Home Licensing Standards. CPAs can customize the requirements for each foster home based on the background and needs of the home and the children in care.

Comment: Regarding §749.923(a)(2)(A), one commenter said the word "to" is missing.

Response: HHSC agrees with the comment and added "to" before "use" in §749.923(a)(2)(A).

Comment: Regarding §749.925(c), one commenter recommended replacing "foster home" with "foster family."

Response: HHSC agrees with the comment and revised §749.925(c) to say "foster family."

Comment: Regarding §749.931(b)(3), one commenter said they assumed that "records of deficiencies and resolutions" means documentation included in the closing summary, rather than requiring a CPA to create and share separate copies of those records with another CPA.

Response: HHSC disagrees with the comment and declines to revise the rule in response to this comment. New §749.931 maintains the requirement in the repealed §749.2475. This record may be included in the closing summary or in the transfer summary if the home is not closed.

Comment: Regarding §749.931(c) and §749.937(d), one commenter urged HHSC to strengthen enforcement and penalties related to this rule, citing concerns that it lacks sufficient impact when a prior CPA's history may directly affect child safety. The commenter specifically recommended stronger consequences for non-compliant CPAs to ensure compliance and protection of children. The commenter requested clarification on whether the timeline is measured in calendar days or business days and asked for guidance on how the requirement should be handled if the prior CPA is no longer operating.

Response: HHSC acknowledges the comment and declines to revise the rules in response to this comment. The enforcement rules, in 26 TAC Chapter 745, Subchapter L, allow HHSC to take action appropriate to the severity of the violation, but these rules are not a part of this rule project. According to the definition in §749.43, days are calendar days unless otherwise stated. The rules provide required timelines for releasing background information, transfer summaries, and closing summaries to ensure continuity of information relevant to child safety. These requirements apply to the extent the prior CPA remains operational and maintains the required records.

Comment: Regarding §749.951(c), one commenter said that the wording in this rule seems clearer and appreciates the clarification that young adults in care count toward capacity but raised concern that this may represent a change from current practice. If it is a change, the commenter noted it could have significant impacts on children and young adults living in foster homes. The commenter also highlighted ongoing confusion about how capacity is calculated, particularly in relation to DFPS Texas Child-Centered Care requirements and suggested further clarification.

Response: HHSC acknowledges the comment, and no rule changes are needed. The requirement to count young adults in care toward a foster home capacity is not new; it was in the repealed §749.2651(b). Rules describing how to calculate capacity were in the repealed Subchapter M, Division 5, Capacity and Child-Caregiver Ratio, and are now in new Subchapter G, Division 3, Capacity and Supervision.

Comment: Regarding §749.1001(a), one commenter stated that, overall, the proposed rules are a significant improvement as they are less prescriptive and detailed. The commenter recommended removing the word "clean" from the language in subsection (a) because it invites subjective interpretation by inspectors. The commenter suggested focusing the standard more narrowly on objective, safety-related concerns, consistent with the intent of the following subsections.

Response: HHSC acknowledges the comment and declines to revise the rules in response to this comment. HHSC determines The standard meaning of "clean" is sufficient.

Comment: Regarding §§749.1031, 749.1033, and 749.1035, multiple commenters opposed the proposed rules and the provisions tied to HB 1403, arguing that removing the requirement for foster homes to disclose firearms endangers children. Commenters asserted that identifying the presence of firearms and ensuring safe storage are basic safety standards necessary to protect vulnerable foster children. The commenters cited unsafe firearm storage, accidental shootings involving children, gun-related injuries and deaths, and increased mental health risks as reasons the rules threaten child safety. Several commenters stated that firearms pose a serious and well-documented danger to children and argued that safe storage cannot be assumed without disclosure and verification. Commenters expressed concern that the rules reduce transparency, limit the ability of foster agencies to assess risk, and prioritize gun-related interests over child welfare.

Response: HHSC disagrees with the comments and declines to revise the rules in response to this comment. HRC §42.042 prohibits HHSC and CPAs from requiring foster homes to disclose specific types of firearms or to report changes in firearm types. However, CPAs may ask whether firearms are present in the home and how those firearms are secured. New §§749.1031, 749.1033, 749.1035, and 749.1037 implement these statutory requirements while maintaining child safety standards. The rules require each CPA to adopt and enforce a policy addressing the presence of weapons, firearms, explosive materials, and projectiles; ensure that children in care do not have unsupervised access to such items, including through locked storage; assess appropriateness based on the individual child; and document the presence of these items and the specific precautions used to ensure safety. CPAs must review these requirements with prospective foster parents during screening and evaluate ongoing compliance annually. HHSC does not have the authority to waive statutory requirements.

Comment: Regarding §749.1051(c)(2), one commenter suggested using the term "sleeping space" instead of "bedroom" to improve consistency and reduce confusion. The commenter noted that the previous rules consistently use "bedroom" and clearly define what qualifies, expressing uncertainty about changing the term. The commenter believed this issue may be connected to kinship rules language and identified it as an additional reason to clarify whether any definitions were updated in the new rules.

Response: HHSC agrees with the comment and revised §749.1051(c)(2) to use "sleeping space," which is consistent with the term used in this rule.

Comment: Regarding §749.1063(e), one commenter requested additional guidance on the swimming skills or assessment requirements, specifically asking whether a standardized assessment is expected and how providers should document compliance.

Response: HHSC acknowledges the comment, and no rule changes are needed. Section 749.1063(e) requires caregivers to assess a child's swimming skills before allowing access to a swimming pool, hot tub, or other body of water and requires the CPA to document how the caregiver made that assessment. The rule does not require a standardized assessment or prescribe a specific documentation format.

Comment: Regarding §749.1103, one commenter asked for clarification on the distinction between an "allegation" and a "confirmed finding" to ensure consistent enforcement and provider understanding.

Response: HHSC acknowledges the comment and declines to revise the rules in response to this comment. HHSC determines The standard meaning of "allegation" is sufficient. Section 749.1103 does not use the term "confirmed finding." The CPA must evaluate a home's compliance with relevant laws and rules each time there is an allegation of a deficiency in the home. The evaluation is intended to determine whether a violation of a minimum standard, administrative rule, or statute occurred and whether the CPA must take corrective action.

Comment: Regarding §749.1103(a) and (b)(3), one commenter assumed that the requirement in §749.1103(a) already exists in the current rules and notes that, if it does not, the standard would represent a significant change. The commenter found the standard in §749.1103(b)(3) somewhat unclear or unusual but noted it may already exist in the current rules and recommend additional clarification.

Response: HHSC disagrees with the comment and declines to revise the rule in response to this comment. The requirements in §749.1103(a) and (b)(3) were previously included in the repealed §749.2801. The rule continues the requirement for a CPA to evaluate foster home compliance but changes the frequency from biennial to annual. In addition, the requirement in §749.1103(b)(3) implements HRC §42.0561, which requires a CPA to obtain and consider information relating to family violence.

Comment: Regarding §749.1211, one commenter requested clarification on the pre-placement home visit requirement, noting that completing a visit before every placement can be impractical due to urgent placements and geographic challenges. The commenter asked whether a variance would be required in such cases and whether alternative methods of verification would be acceptable.

Response: HHSC acknowledges the comment and declines to revise the rule in response to this comment. Section 749.1211(b) allows for emergency placements. No variance is needed for emergency situations. Variance requests for non-emergency situations will be considered in accordance with Chapter 745, Subchapter J, based on the situation described by the CPA.

Comment: Regarding §749.1211(b), one commenter noted that infants may need time to adjust to new caregivers and suggested the language may be too restrictive. The commenter recommended either removing the requirement or adding technical assistance guidance encouraging relationship-building for children of all ages. The commenter advised against making the requirement overly rigid and suggested adding flexibility or caveats, including consideration of virtual visits where appropriate.

Response: HHSC disagrees with the comment and declines to revise the rule in response to this comment. The requirement in §749.1211(b) is not new. The wording in the repealed §749.1251 was updated in new §749.1211. Neither allow for virtual visits. HHSC will consider providing technical assistance.

Comment: Regarding §749.1213, one commenter requested clarification on whether some required post-placement contacts may be conducted virtually.

Response: HHSC agrees with the comment and revised the rule for clarity. The term "face-to-face contact" is revised to "in person visits" to clarify that the required Post-placement interaction must occur in person.

Comment: Regarding §749.1233(e), one commenter viewed the change as generally positive but recommended seeking input to determine whether the requirement aligns with existing Single Source Continuum Contractor (SSCC) and DFPS timelines. The commenter noted that advocacy may be needed if timelines are not consistent and raise concern that, despite its benefits, the change may not fully align with requirements of other regulatory bodies.

Response: HHSC disagrees with this comment and declines to revise the rule in response to this comment. Section 749.1233(e) establishes a minimum standard for completing an initial service plan. The rule does not prevent a CPA from following the more stringent timeframe imposed by SSCC requirements, DFPS requirements, or the CPA's own policies, when those requirements are consistent with this chapter.

Comment: Regarding §749.1403(f) and §749.1405(f), one commenter expressed concern that the standard is overly broad, as a cited deficiency may not be relevant or concerning to other parents. The commenter suggested that the issue warrants further exploration and refinement, noting that prior attempts to modify the language have been unsuccessful. The commenter proposed limiting or modifying the requirement for private placements, since references to "parent" typically mean DFPS, which would already have access to the relevant information.

Response: HHSC disagrees with the comment and declines to revise the rules in response to this comment. Sections 749.1403(f) and 749.1405(f) require notification to the parent of a child in care when specific safe sleep deficiencies are cited in a foster home. HRC §42.0429(b) also requires that a licensed facility provide written notice to the parent or legal guardian if HHSC determines that the facility has violated a safe sleeping standard.

Comment: Regarding §749.1501(e), one commenter supported the proposal and sees it as a clear improvement over the current standards.

Response: HHSC acknowledges the comment. No rule changes are needed.

Comment: Regarding §749.1501(e), one commenter is concerned that some of the language is too vague, which could allow for inconsistent interpretation or application by investigators and others responsible for enforcement.

Response: HHSC acknowledges the comment and declines to revise the rule in response to this comment. The requirement in §749.1501(e) is clear, requiring the CPA to follow medication

label instructions for storage and keep medications inaccessible to children.

Comment: Regarding §749.1505(a)(1), one commenter said that a prior version limited the requirement to documentation of emergency visits or hospitalizations and suggested that it may be appropriate to return to that narrower scope to mirror kinship standards.

Response: HHSC disagrees with the comment and declines to revise the rule in response to this comment. The documentation requirement in §749.1505(a)(1) reflects current foster care standards and supports the oversight of children's medical care in foster homes. Kinship foster home standards are specific to kinship placements and do not apply to unrelated foster homes. The broader scope is appropriate and consistent with federal requirements in 45 CFR Parts 1355 and 1356.

Comment: Regarding §749.1505(b)(1), one commenter said that a prior version limited the requirement to prescription and psychotropic medications and suggested that it may be appropriate to return to that narrower scope to mirror kinship standards.

Response: HHSC disagrees with the comment and declines to revise the rule in response to this comment. The documentation requirements in §749.1505(b)(1) reflect current foster care standards and support medication safety for children in care. Kinship foster home standards are specific to kinship placements and do not apply to unrelated foster homes. The broader documentation requirement is appropriate and consistent with federal requirements under 45 CFR Parts 1355 and 1356.

Comment: Regarding §749.1505(a)(3), one commenter viewed the revision of this rule as an improvement over the prior version, noting that it removes the requirement for the CPA to ensure there are no contraindicated medications. The commenter indicated that the prior obligation was inappropriate because it falls outside the CPA's professional expertise.

Response: HHSC acknowledges the comment. No rule changes are needed.

Comment: Regarding §749.1601(a), one commenter was confused on what qualifies as an emergency behavior intervention (EBI) "recognized by Child Care Regulation," noting it is unclear where such types are defined or listed. The commenter questioned whether the intent is simply to exclude prohibited practices like chemical restraints and requested clarification. Additionally, the commenter raised concern that the requirement could create delays if new or emerging EBI interventions must wait for DFPS approval before being used.

Response: HHSC agrees with the comment and revised §749.1601(a) to clarify that CPAs must use an EBI program that complies with all regulatory requirements. CCR evaluates the CPA's EBI program for compliance with the minimum standards during the application process per §745.243.

Comment: Regarding §§749.803, 749.807, 749.823, and 749.825, one commenter recommended requiring training on family and dating violence for CPA employees and caregivers. The commenter noted that training on family violence dynamics is missing, despite CPAs being required to share domestic violence history with regulators. The commenter emphasized that family violence includes coercive control, economic, psychological, and technology-facilitated abuse, and that without proper training, staff may fail to identify or appropriately respond to it. The commenter also highlighted the heightened risk of dating violence for teens and foster youth, noting that technology and social media can intensify abuse and that caregivers of older youth lack adequate guidance without targeted training. The commenter recommended adding family violence training for new CPA employees and annual continuing education. The commenter also recommended requiring dating violence training for caregivers of children age 12 and older in both general and additional caregiver training.

Response: HHSC disagrees with the comment and declines to revise the rules in response to this comment. The adopted rules establish required training topics for caregivers and employees while allowing CPAs flexibility to address additional topics related to the needs of children in care and the circumstances of individual foster homes. During the foster home screening process, CPAs must obtain, discuss, assess, and document information regarding prospective foster parents, including emotional stability, character, motivation, and the ability to provide a caring environment and appropriate supervision. Section 749.807 requires CPAs to annually evaluate foster homes, including the household's immediate needs, compliance history, investigation history, and the health, safety, and well-being of each child in care. If concerns are identified, the CPA must provide additional training to address those concerns. This allows CPAs to require additional training tailored to concerns identified through the foster home screening process, annual evaluations, compliance reviews, investigation history, or the specific needs of children in care, without imposing a new mandatory training requirement on all caregivers and employees. In addition, §749.825 allows CPAs flexibility in selecting employee annual training topics beyond those specifically required by the rules.

Comment: Regarding §749.1033(b) and §749.1035(d) and (e), and the repeal of §749.2961(b) and §749.2965(b), one commenter urged HHSC to address the risk firearms pose in family violence situations and expand related training requirements. The commenter noted that firearms are the leading cause of domestic violence homicides, their presence increases homicide risk by up to 500 percent, and data shows most domestic homicide victims, many children, are killed with firearms. The commenter highlighted the impact of these deaths on children, including foster children, and notes that Texas law already restricts firearm possession for individuals with family violence convictions or protective orders. The commenter raised concern that the rules lack guidance on responding when a caregiver is legally prohibited from possessing a firearm, creating safety risks. The commenter recommended requiring training for CPA employees and caregivers on the connection between firearms and domestic violence lethality, recognizing heightened risk, and understanding Texas firearms laws related to family violence.

Response: HHSC disagrees with the comment and declines to revise the rules in response to this comment. Section 749.807 requires CPAs to address home-specific safety concerns by providing additional caregiver training. CPAs must annually evaluate each foster home. If the CPA identifies areas of non-compliance or safety concerns, the CPA must provide additional training appropriate to address those concerns. The CPA can require targeted training that is relevant to a particular foster home, without imposing a new mandatory training topic on all caregivers. HHSC declines to add a separate mandatory training requirement because the adopted rules allow CPAs flexibility to address firearm-related safety concerns when they are identified.

HHSC made minor editorial changes to correct grammar and use of acronyms and to make clarifying and plain language edits

in §§749.801, 749.803, 749.805, 749.821, 749.831, 749.923, 749.931, 749.951, 749.955, 749.957, 749.973, 749.1003, 749.1005, 749.1007, 749.1009, 749.1013, 749.1103, 749.1231, 749.1251, 749.1303, 749.1419 and 749.1603. HHSC also made a minor change to revise the title of §749.1213, to "Post-Placement Visits" to standardize use of a term and §749.1235 to "Service Plan Requirements for Psychosocial Assessment" to align the title with the content of the rule.

HHSC also made minor editorial changes to ensure consistency in defining "foster home (home)" across §§749.831, 749.923, 749.929, 749.935, 749.937, 749.951, 749.953, 749.1009, 749.1035, 749.1109, 749.1201, and 749.1211.

HHSC revised §§749.1001, 749.1007, 749.1009, 749.1051, 749.1501, and 749.1505 to reflect the updated National Model Foster Family Home Licensing Standards.

Additionally, HHSC made changes to align wording in §749.807 with §749.831; correct "kinship parent" to "prospective foster parent" in §749.901; clarify that the six months in §749.925(b) is from the date the temporary verification was issued; clarify the wording for what a transfer and closing summary must include and add that a transfer summary must include the CPA's recommendation whether to reopen a home in §749.937; clarify by adding "child" in front of "day care" in §749.935; clarify DFPS "legal custody" in §749.1201; simplify §749.1215 to reflect statutory language; add that a home must report active criminal or DFPS investigations in §749.1101; clarify "and law" related to child safety seat guidelines in §749.1017; and clarify that EBI must not be used "as punishment" in §749.1303.

## SUBCHAPTER F. TRAINING AND PROFESSIONAL DEVELOPMENT

## DIVISION 1. DEFINITIONS

**26 TAC §749.801**

STATUTORY AUTHORITY

The repeal is authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

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 July 21, 2026.

TRD-202602986
Karen Ray
Chief Counsel
Health and Human Services Commission
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For further information, please call: (512) 438-3269

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## DIVISION 2. OVERVIEW OF TRAINING AND EXPERIENCE REQUIREMENTS

**26 TAC §749.811, §749.813**

STATUTORY AUTHORITY

The repeals are authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

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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## DIVISION 3. ORIENTATION

**26 TAC §749.831, §749.833**

STATUTORY AUTHORITY

The repeals are authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

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## DIVISION 4. PRE-SERVICE EXPERIENCE AND TRAINING

**26 TAC §§749.861, 749.863 - 749.865, 749.867 - 749.869**

STATUTORY AUTHORITY

The repeals are authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

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## DIVISION 5. CURRICULUM COMPONENTS FOR PRE-SERVICE TRAINING

**26 TAC §§749.881 - 749.883, 749.885, 749.887, 749.889**

STATUTORY AUTHORITY

The repeals are authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

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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## DIVISION 6. PEDIATRIC FIRST AID AND PEDIATRIC CPR CERTIFICATION

**26 TAC §§749.911, 749.913, 749.915**

STATUTORY AUTHORITY

The repeals are authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

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## DIVISION 7. ANNUAL TRAINING

**26 TAC §§749.930 - 749.933, 749.935, 749.937, 749.939**

STATUTORY AUTHORITY

The repeals are authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

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## DIVISION 8. TOPICS AND CURRICULUM COMPONENTS FOR ANNUAL TRAINING

**26 TAC §§749.941, 749.943 - 749.945, 749.947, 749.949**

STATUTORY AUTHORITY

The repeals are authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive

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## SUBCHAPTER G. CHILDREN'S RIGHTS

### 26 TAC §§749.1001, 749.1003, 749.1005, 749.1007, 749.1009, 749.1011, 749.1013, 749.1015, 749.1017, 749.1019, 749.1021

STATUTORY AUTHORITY

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## SUBCHAPTER H. FOSTER CARE SERVICES: ADMISSION AND PLACEMENT

## DIVISION 1. ADMISSIONS

### 26 TAC §§749.1101, 749.1103, 749.1105, 749.1107, 749.1109, 749.1111, 749.1113, 749.1115

STATUTORY AUTHORITY

The repeals are authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

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## DIVISION 2. ADMISSION ASSESSMENT

### 26 TAC §§749.1131, 749.1133, 749.1135, 749.1137

STATUTORY AUTHORITY

The repeals are authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

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## DIVISION 3. REQUIRED ADMISSION INFORMATION

### 26 TAC §§749.1151, 749.1153, 749.1155

STATUTORY AUTHORITY

The repeals are authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry

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## DIVISION 4. EMERGENCY ADMISSION

**26 TAC §§749.1181, 749.1183, 749.1185, 749.1187, 749.1189**

STATUTORY AUTHORITY

The repeals are authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

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## DIVISION 5. FOSTER CARE PLACEMENT

**26 TAC §§749.1251, 749.1253, 749.1255**

STATUTORY AUTHORITY

The repeals are authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

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## DIVISION 6. SUBSEQUENT PLACEMENT

**26 TAC §749.1281**

STATUTORY AUTHORITY

The repeal is authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

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## DIVISION 7. POST-PLACEMENT CONTACT

**26 TAC §749.1291**

STATUTORY AUTHORITY

The repeal is authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

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## SUBCHAPTER I. FOSTER CARE SERVICES: SERVICE PLANNING, DISCHARGE

## DIVISION 1. SERVICE PLANS

### 26 TAC §§749.1301, 749.1305, 749.1307, 749.1309, 749.1311 - 749.1313, 749.1315, 749.1317, 749.1319, 749.1321, 749.1323

STATUTORY AUTHORITY

The repeals are authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

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## DIVISION 2. SERVICE PLAN REVIEW AND UPDATES

### 26 TAC §§749.1331, 749.1333, 749.1335 - 749.1337, 749.1339

STATUTORY AUTHORITY

The repeals are authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

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## DIVISION 3. DISCHARGE AND TRANSFER PLANNING

### 26 TAC §§749.1361, 749.1363, 749.1365, 749.1367, 749.1369, 749.1371, 749.1373, 749.1377

STATUTORY AUTHORITY

The repeals are authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

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## SUBCHAPTER J. FOSTER CARE SERVICES: MEDICAL AND DENTAL

## DIVISION 1. MEDICAL AND DENTAL CARE

### 26 TAC §§749.1401, 749.1403, 749.1405, 749.1409, 749.1411, 749.1413, 749.1415, 749.1417, 749.1421, 749.1423, 749.1425, 749.1427, 749.1429, 749.1431, 749.1433, 749.1435, 749.1437

STATUTORY AUTHORITY

The repeals are authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

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## DIVISION 2. ADMINISTRATION OF MEDICATION

**26 TAC §§749.1461, 749.1463, 749.1469**

STATUTORY AUTHORITY

The repeals are authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

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## DIVISION 3. SELF-ADMINISTRATION OF MEDICATION

**26 TAC §749.1501, §749.1503**

STATUTORY AUTHORITY

The repeals are authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

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## DIVISION 4. MEDICATION STORAGE AND DESTRUCTION

**26 TAC §749.1521**

STATUTORY AUTHORITY

The repeal is authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

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## DIVISION 5. MEDICATION RECORDS

**26 TAC §§749.1541, 749.1543, 749.1545**

STATUTORY AUTHORITY

The repeals are authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

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## DIVISION 6. MEDICATION AND LABEL ERRORS

**26 TAC §§749.1561, 749.1563, 749.1565**

STATUTORY AUTHORITY

The repeals are authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

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## DIVISION 7. SIDE EFFECTS AND ADVERSE REACTIONS TO MEDICATION

**26 TAC §749.1581, §749.1583**

STATUTORY AUTHORITY

The repeals are authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

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## DIVISION 8. USE OF PSYCHOTROPIC MEDICATION

**26 TAC §§749.1603, 749.1605, 749.1607, 749.1609, 749.1611**

STATUTORY AUTHORITY

The repeals are authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

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## DIVISION 9. PROTECTIVE DEVICES

**26 TAC §§749.1641, 749.1643, 749.1645, 749.1647**

STATUTORY AUTHORITY

The repeals are authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

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## DIVISION 10. SUPPORTIVE DEVICES

**26 TAC §§749.1671, 749.1673, 749.1675**

STATUTORY AUTHORITY

The repeals are authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

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# SUBCHAPTER K. FOSTER CARE SERVICES: DAILY CARE, PROBLEM MANAGEMENT

## DIVISION 1. ADDITIONAL REQUIREMENTS FOR INFANT CARE

**26 TAC §§749.1801, 749.1803, 749.1805, 749.1807, 749.1809, 749.1811, 749.1813, 749.1815, 749.1817, 749.1819, 749.1821**

STATUTORY AUTHORITY

The repeals are authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

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## DIVISION 2. ADDITIONAL REQUIREMENTS FOR TODDLER CARE

**26 TAC §749.1841**

STATUTORY AUTHORITY

The repeal is authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

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## DIVISION 3. ADDITIONAL REQUIREMENTS FOR PREGNANT CHILDREN

**26 TAC §§749.1861, 749.1863, 749.1865**

STATUTORY AUTHORITY

The repeals are authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

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## DIVISION 4. EDUCATIONAL SERVICES

**26 TAC §§749.1891, 749.1893, 749.1895**

STATUTORY AUTHORITY

The repeals are authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

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## DIVISION 5. RECREATIONAL SERVICES

**26 TAC §§749.1921, 749.1923, 749.1925, 749.1927**

STATUTORY AUTHORITY

The repeals are authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

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## DIVISION 6. DISCIPLINE AND PUNISHMENT

**26 TAC §§749.1951, 749.1953, 749.1955, 749.1957, 749.1959, 749.1961**

STATUTORY AUTHORITY

The repeals are authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

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. FOSTER CARE SERVICES: EMERGENCY BEHAVIOR INTERVENTION

## DIVISION 1. DEFINITIONS

**26 TAC §749.2001**

STATUTORY AUTHORITY

The repeal is authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

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## DIVISION 2. TYPES OF EMERGENCY BEHAVIOR INTERVENTION THAT MAY BE ADMINISTERED

**26 TAC §§749.2051, 749.2053, 749.2055, 749.2059, 749.2061, 749.2063**

STATUTORY AUTHORITY

The repeals are authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

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## DIVISION 3. ORDERS

**26 TAC §§749.2101, 749.2103, 749.2105, 749.2107**

STATUTORY AUTHORITY

The repeals are authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

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## DIVISION 4. RESPONSIBILITIES DURING ADMINISTRATION OF ANY TYPE OF EMERGENCY BEHAVIOR INTERVENTION

**26 TAC §749.2151, §749.2153**

STATUTORY AUTHORITY

The repeals are authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

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## DIVISION 5. ADDITIONAL RESPONSIBILITIES DURING ADMINISTRATION OF A PERSONAL RESTRAINT

**26 TAC §§749.2201, 749.2203, 749.2205**

STATUTORY AUTHORITY

The repeals are authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

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## DIVISION 6. COMBINATIONS OF EMERGENCY BEHAVIOR INTERVENTION

**26 TAC §749.2231, §749.2233**

STATUTORY AUTHORITY

The repeals are authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

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## DIVISION 7. TIME RESTRICTIONS FOR EMERGENCY BEHAVIOR INTERVENTION

**26 TAC §749.2281, §749.2283**

STATUTORY AUTHORITY

The repeals are authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

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## DIVISION 8. GENERAL CAREGIVER RESPONSIBILITIES, INCLUDING DOCUMENTATION, AFTER THE ADMINISTRATION OF EMERGENCY BEHAVIOR INTERVENTION

**26 TAC §§749.2301, 749.2303, 749.2305, 749.2307**

STATUTORY AUTHORITY

The repeals are authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

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## DIVISION 9. TRIGGERED REVIEWS

**26 TAC §§749.2331, 749.2333, 749.2335, 749.2337, 749.2339**

STATUTORY AUTHORITY

The repeals are authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

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## DIVISION 10. OVERALL OPERATION EVALUATION

**26 TAC §749.2381, §749.2383**

STATUTORY AUTHORITY

The repeals are authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

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# SUBCHAPTER M. FOSTER HOMES: SCREENINGS AND VERIFICATIONS

## DIVISION 1. GENERAL REQUIREMENTS

**26 TAC §§749.2401, 749.2403, 749.2405, 749.2407**

STATUTORY AUTHORITY

The repeals are authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

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## DIVISION 2. FOSTER HOME SCREENINGS

**26 TAC §§749.2445, 749.2447, 749.2449, 749.2451, 749.2453**

STATUTORY AUTHORITY

The repeals are authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

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## DIVISION 3. VERIFICATION OF FOSTER HOME

**26 TAC §§749.2470, 749.2473, 749.2475, 749.2477, 749.2479, 749.2481, 749.2483, 749.2485, 749.2487 - 749.2489, 749.2491, 749.2493, 749.2495, 749.2497**

STATUTORY AUTHORITY

The repeals are authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

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## DIVISION 4. TEMPORARY, TIME-LIMITED, AND PROVISIONAL VERIFICATIONS

**26 TAC §§749.2520, 749.2521, 749.2523, 749.2525 - 749.2527, 749.2529, 749.2531, 749.2533, 749.2535, 749.2537, 749.2539**

STATUTORY AUTHORITY

The repeals are authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

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## DIVISION 5. CAPACITY AND CHILD/CARE-GIVER RATIO

**26 TAC §§749.2550, 749.2551, 749.2555, 749.2557**

STATUTORY AUTHORITY

The repeals are authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

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## DIVISION 6. SUPERVISION

**26 TAC §§749.2591, 749.2593, 749.2595, 749.2597, 749.2599**

STATUTORY AUTHORITY

The repeals are authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

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## DIVISION 7. NORMALCY

**26 TAC §§749.2601, 749.2603, 749.2605, 749.2607**

STATUTORY AUTHORITY

The repeals are authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

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## DIVISION 8. RESPITE CHILD-CARE SERVICES

**26 TAC §§749.2621, 749.2623, 749.2625, 749.2627, 749.2629, 749.2631, 749.2633, 749.2635**

STATUTORY AUTHORITY

The repeals are authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

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## DIVISION 9. AGENCY--FOSTER FAMILY RELATIONSHIPS

**26 TAC §§749.2651, 749.2653, 749.2655**

STATUTORY AUTHORITY

The repeals are authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

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## SUBCHAPTER N. FOSTER HOMES: MANAGEMENT AND EVALUATION

**26 TAC §§749.2801, 749.2803, 749.2805, 749.2807, 749.2809, 749.2811, 749.2813 - 749.2815, 749.2817, 749.2819, 749.2821, 749.2823, 749.2825**

STATUTORY AUTHORITY

The repeals are authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

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## SUBCHAPTER O. FOSTER HOMES: HEALTH AND SAFETY REQUIREMENTS, ENVIRONMENT, SPACE AND EQUIPMENT
## DIVISION 1. HEALTH AND SAFETY

**26 TAC §§749.2901 - 749.2905, 749.2907 - 749.2909, 749.2911, 749.2913, 749.2915, 749.2917**

STATUTORY AUTHORITY

The repeals are authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

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## DIVISION 2. TOBACCO AND E-CIGARETTE USE

### 26 TAC §749.2931

STATUTORY AUTHORITY

The repeal is authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

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## DIVISION 3. WEAPONS, FIREARMS, EXPLOSIVE MATERIALS, AND PROJECTILES

### 26 TAC §§749.2961, 749.2963, 749.2965, 749.2967

STATUTORY AUTHORITY

The repeals are authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

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## DIVISION 4. SPACE AND EQUIPMENT

### 26 TAC §§749.3021, 749.3023, 749.3025, 749.3027, 749.3029, 749.3031, 749.3033, 749.3035, 749.3037, 749.3039, 749.3041, 749.3043

STATUTORY AUTHORITY

The repeals are authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

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## DIVISION 5. NUTRITION AND FOOD PREPARATION

### 26 TAC §§749.3061, 749.3063, 749.3065, 749.3067, 749.3069, 749.3071, 749.3073, 749.3075, 749.3077, 749.3079, 749.3081

STATUTORY AUTHORITY

The repeals are authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

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## DIVISION 6. TRANSPORTATION

**26 TAC §§749.3101, 749.3103, 749.3105, 749.3107, 749.3109, 749.3111**

STATUTORY AUTHORITY

The repeals are authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

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## DIVISION 7. SWIMMING POOLS, BODIES OF WATER, SAFETY

**26 TAC §§749.3131, 749.3133, 749.3135, 749.3137, 749.3139, 749.3141, 749.3143, 749.3145, 749.3147, 749.3149, 749.3151**

STATUTORY AUTHORITY

The repeals are authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

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# SUBCHAPTER F. TRAINING REQUIREMENTS

## DIVISION 1. CAREGIVER TRAINING REQUIREMENTS

**26 TAC §§749.801, 749.803, 749.805, 749.807**

STATUTORY AUTHORITY

The new sections are authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

*§749.801. Caregiver Pre-Verification Training Requirements.*
Before foster home verification, the child-placing agency (CPA) must ensure each caregiver completes:

(1) an overview of the relevant and applicable laws and rules of this chapter;

(2) the CPA's philosophy, organizational structure, policies, services, and programs the CPA provides;

(3) a review of the reasonable and prudent parent standard, and how the standard ensures child safety;

(4) a review of the CPA and foster parent verification agreements; and

(5) a review of the Child Care Regulation Statement of Foster Parent and Child-Placing Agency Rights and Responsibilities form, or a form created by the CPA with the same information.

*§749.803. General Caregiver Training Requirements.*
(a) Before a child-placing agency (CPA) places a child in the care of the foster home (home), at least one foster parent must complete:

(1) four hours of general caregiver training;

(2) six hours emergency behavior intervention (EBI) training; and

(3) safe sleeping training, if the home will care for a child in care younger than two years old.

(b) Other caregivers, including the second foster parent, must complete the training required under subsection (a) of this section within 90 days after the CPA places the child in the care of the home.

(c) All caregivers who provide psychotropic medication must finish training for administering psychotropic medication before administering a psychotropic medication.

(d) General caregiver training must include:

(1) topics appropriate to the needs of each child for whom the caregiver will be providing care;

(2) trauma informed care;

(3) measures to prevent, recognize, and report suspected occurrences of child abuse, including sexual abuse;

(4) procedures to follow in emergencies, such as weather-related emergencies, volatile persons, and severe injury or illness of a child or adult; and

(5) preventing the spread of communicable diseases.

(e) EBI training, safe sleeping training, and psychotropic medication training must include curriculum determined by the CPA.

(f) The CPA may decide not to require a foster parent to take EBI training if the CPA determines the training does not directly apply to the:

(1) ages of each child in care, and

(2) types of services the home will provide.

*§749.805. Pediatric First Aid and Pediatric Cardiopulmonary Resuscitation (CPR) Requirements.*

(a) One foster parent must be certified in pediatric first aid and pediatric cardiopulmonary resuscitation (CPR) before a child-placing agency (CPA) issues the foster home verification. Other caregivers, including a second foster parent, must be certified in pediatric first aid and CPR within 90 days after the CPA verifies the home.

(b) Pediatric first aid must include training related to rescue breathing and choking.

(c) Pediatric CPR training must adhere to the guidelines for CPR established by the American Heart Association.

*§749.807. Additional Caregiver Training Requirements.*

(a) From the date a child-placing agency (CPA) verifies a foster home (home), the CPA must annually evaluate the home to identify any areas of non-compliance with minimum standards. The CPA will evaluate the following:

(1) immediate needs of the household;

(2) compliance history of the home;

(3) investigation history of the home; and

(4) health, safety, and well-being of each child in care.

(b) If the CPA identifies areas of non-compliance in the home, the CPA must provide all caregivers in that home with additional training appropriate to address the areas of non-compliance.

(c) For each home that provides care to a child receiving treatment services for emotional disorders, intellectual disabilities, or autism spectrum disorder, the CPA must provide at least one hour of annual training to each caregiver relating to the treatment services the child in care receives, regardless of whether the CPA identifies concerns in the home.

(d) Except for the training required in subsection (c) of this section, the CPA may decide not to require additional training for all caregivers if no concerns are found during the annual check.

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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## DIVISION 2. EMPLOYEE TRAINING REQUIREMENTS

**26 TAC §§749.821, 749.823, 749.825**

STATUTORY AUTHORITY

The new sections are authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

*§749.821. Employee Orientation Requirements.*

Before beginning job duties in a child-placing agency (CPA) each employee must go through an orientation that includes:

(1) an overview of the relevant and applicable laws and rules of this chapter;

(2) information about how the CPA is organized, its rules, and the services and programs it offers; and

(3) the characteristics and expected needs of the children the CPA serves.

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## DIVISION 3. EMPLOYEE AND CAREGIVER TRAINING DOCUMENTATION REQUIREMENTS

**26 TAC §749.831**

STATUTORY AUTHORITY

The new section is authorized by 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 agencies, and Texas

Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

*§749.831. Employee and Caregiver Documentation of Required Trainings.*

(a) A child-placing agency (CPA) must ensure that all training teaches job-related skills. The CPA must document how the CPA determined the training met this requirement.

(b) A test must be given at the end of every training that shows the caregiver's or employee's understanding of how to apply the skills in the foster home (home) or work environment. The test must be signed and dated by the caregiver or employee.

(c) The CPA must document and maintain proof in the caregiver's or employee's record that the caregiver or employee completed the following training:

(1) for all caregivers:

(A) pre-verification training;

(B) caregiver training;

(C) pediatric first aid and pediatric cardiopulmonary resuscitation (CPR) training; and

(D) additional training topics covered, including:

*(i)* the results of the annual evaluation for concerns about health, safety, and well-being of each child in care; and

*(ii)* if the CPA determines that a home requires additional training to address areas of non-compliance identified during the CPA's annual evaluation of the home, an explanation of how the CPA chose the training topics for each caregiver's additional training; or

*(iii)* when the CPA does not find any areas of non-compliance, the reasoning the CPA used for each caregiver for not requiring annual training for each caregiver; and

(2) for all employees:

(A) orientation;

(B) new employee training;

(C) pediatric first aid and pediatric CPR training, if applicable; and

(D) annual training, including a statement signed by the employee that the abuse, neglect, and exploitation training requirements were met.

(d) If the CPA determines that a caregiver is not required to complete an annual training not required by statute, the CPA must document the reason the training was not required.

(e) Certificates for pediatric first aid and pediatric CPR must have an expiration date, and the training documented on the certificate must be renewed by the expiration date.

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# SUBCHAPTER G. FOSTER HOME SCREENINGS AND VERIFICATIONS
## DIVISION 1. FOSTER HOME SCREENINGS

### 26 TAC §§749.901, 749.903, 749.905

STATUTORY AUTHORITY

The new sections are authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

*§749.901. Foster Home Screenings.*

(a) A child-placing agency (CPA) must complete a foster home (home) screening as detailed in this section before verifying a home.

(b) The CPA must update the home screening with an addendum any time there is a major life change in the foster family or a change that affects the home's verification. A major life change includes:

(1) marriage, divorce, separation, death, birth, adoption, or any other change to who lives in the household;

(2) a serious health problem or significant change that affects the ability of a foster parent to care for a child in care; and

(3) when one foster parent is away for a long time, such as military service or working out of town.

(c) Through interviewing each prospective foster parent or completing a joint interview, the CPA must obtain, discuss, assess, and document the following information about a prospective home.

(1) The age of each prospective foster parent and any other member of the household.

(2) The basic competency of each prospective foster parent, including ensuring and documenting that each prospective foster parent:

(A) can meet basic competencies, including basic reading, writing, and math; or

(B) have a support system in place that can immediately assist with these competencies.

(3) The personal characteristics of the prospective foster parents, including an assessment of each parent's:

(A) emotional stability, character, health, and ability to manage adult responsibility;

(B) motivation and willingness to provide foster care, including the parents' expectations for the child in care and willingness to adjust those expectations based on the needs of the child in care; and

(C) ability to provide a caring environment, appropriate supervision, and responsible discipline.

(4) History of former and current family and interpersonal relationships, including marriages, common-law marriages, and other relationships between people who share or have shared a domestic life without being married, including:

(A) the current relationship status and quality of the relationship between the prospective foster parents; and

(B) the quality of the relationship between the prospective foster parents and the prospective foster parents' children living in or out of the home, including:

*(i)* strengths and problems in all relationships; and

*(ii)* how strengths and problems may impact a child placed in the care of the home.

(5) The financial status of the prospective foster parents, including:

(A) discussing with the prospective foster parents the current reimbursement process, if applicable, and ensuring the prospective foster parents' understanding of that process; and

(B) the CPA's determination that the prospective foster parents have or have reasonable access to sufficient resources to support the household and all children in care.

(6) The results of criminal history and central registry background checks conducted on the prospective foster parents and on any non-client 14 years old or older who regularly or frequently stays at or is present in the home, including:

(A) confirmation that the required Child Care Regulation (CCR) background checks were conducted and assessed on:

*(i)* each prospective foster parent; and

*(ii)* any non-client who is at least 14 years old or older who will be regularly or frequently staying at or is present in the home, excluding children or young adults in care;

(B) documentation the CPA assessed all background check results received from CCR and any background check information self-disclosed by the prospective foster parents and any person connected to the home;

(C) documentation, including the background check Eligibility Determination provided by the Texas Health and Human Services Commission; and

(D) the CPA must not include any background check results received from CCR in the home screening document.

(7) A history of the prospective foster parents' residence, including the length of time spent at each residence for the last two years. The history must include each full street address, and the CPA must:

(A) ask the prospective foster parents if the police have come to any of the homes in the past two years;

*(i)* if the police have come to any of the prospective foster parents' homes, obtain service call information from the appropriate law enforcement agency for each of the prospective foster parents' addresses over the past two years; and

*(ii)* regardless of background check results, if the prospective foster parents report any incident requiring the police to come to any of the homes, request background information from each law enforcement agency that responded, and discuss the incident and any additional background information that the CPA obtains with the prospective foster parents; and

(B) report to CCR the information obtained about the prospective foster family's domestic violence history, if any. The CPA must report this information regardless of whether the CPA verifies the home. This report must be made to CCR within two days of learning about the history.

(8) Health status of all persons living in the home, including:

(A) information about the current and previous physical and mental health status (including substance abuse history) of all persons living in the home in relation to the family's ability to provide foster care; and

(B) whether any noted health-related issue may affect the prospective foster parents' ability to care for a child placed in the care of the home.

(9) The prospective foster parents' values, feelings, and practices regarding child-care and discipline, including:

(A) each prospective foster parent's experience caring for children;

(B) the ways each prospective foster parent was disciplined as a child and the prospective foster parent's reactions to the discipline;

(C) each prospective foster parent's discipline styles, techniques, and ability to recognize and respect differences in children and use discipline methods suitable to an individual child; and

(D) the CPA's approved disciplinary methods, and if a prospective foster parent's current discipline methods are different from those the CPA approves the CPA must discuss and assess how the foster parent would change child care discipline practices to conform to the CPA's approved methods.

(10) Each prospective foster parent's sensitivity to and feelings about a child in care who may have been subjected to abuse, neglect, or exploitation, including each prospective foster parent's:

(A) understanding of the dynamics of child abuse, neglect, and exploitation;

(B) understanding and methods of dealing with the prospective foster parents' own past experiences of abuse and neglect, if the prospective foster parents have any; and

(C) understanding of how these issues and experiences may affect the prospective foster parents, other family members of the prospective foster parents, and a child in care.

(11) The attitude of other household members about the prospective foster parents' plan to provide foster care, including each household member's:

(A) involvement in the care of a child in care;

(B) attitudes toward a child in care; and

(C) acceptance of the verification and of being a foster family for a child in care.

(12) Support systems available to each prospective foster parent, and support the family may receive from these resources, including information about any person who may provide support as a caregiver during an unexpected event or crisis, such as an illness or disability of a prospective foster parent, loss of transportation, or death of an immediate family member.

(13) Prospective foster parent's ability to work with specific kinds of behaviors and backgrounds, including each prospective foster parent's:

(A) willingness and ability to:

*(i)* work with children who have challenging behaviors;

*(ii)* care for children of a specific sex and age range;

*(iii)* care for a specific number of children, including children who are part of the same sibling group; and

*(iv)* provide additional services, such as respite care; and

(B) understanding of the:

*(i)* concepts of trauma informed care and how to use those concepts in the care, treatment, and management of a child placed in the home; and

*(ii)* dynamics of separation and loss and the effects of these experiences on a child.

(14) Obtain and assess background information from all CPAs that have previously verified the home and document the reason the home was closed. Before approving and verifying the home, the receiving CPA must address the closure or any identified risk indicators, with the prospective foster parents if the background information indicates the home:

(A) was closed by the previous CPA;

(B) had potential risk indicators that the previous CPA did not adequately address; or

(C) was recommended for closure by the Texas Health and Human Services Commission.

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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## DIVISION 2. FOSTER HOME VERIFICATION

### 26 TAC §§749.921, 749.923, 749.925, 749.927, 749.929, 749.931, 749.933, 749.935, 749.937

STATUTORY AUTHORITY

The new sections are authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

*§749.923. Verifying a Foster Home.*

(a) A child-placing agency (CPA) must take the following steps to verify a foster home (home).

(1) Complete and document the requirements in this division.

(2) Obtain:

(A) a floor plan, photo, or other documentation of the home that shows the purposes of all rooms in the home and identifies the indoor areas for a child in care to use; and

(B) a floor plan or photo of the outside areas that shows the buildings, driveways, fences, storage areas, gardens, recreation areas, and bodies of water.

(3) Evaluate all applicable laws and rules of this chapter by:

(A) completing an inspection of the home in person to ensure the home meets applicable rules relating to Daily Care, Education, Discipline, and Health and Safety Requirements of this chapter;

(B) making recommendations about the home's overall ability to keep a child in care safe, paying specific attention to areas of substantial safety risk to a child in care and how the CPA addressed areas of identified safety risks with the prospective foster parent before approving and verifying the home; and

(C) documenting in the home file the details of the inspection of the home, any identified safety risks, and explain how those risks were corrected.

(4) Obtain the review and approval of the home screening, and the recommended verification of the home from the child placement management staff.

(5) Issue a verification certificate that must be posted at the home or be made immediately available for review that includes:

(A) the name and address of the foster family;

(B) the home's total capacity and foster care capacity, including ages and sex of each child in care; and

(C) the types of services the home provides.

(b) A new verification certificate must be issued to a home any time there is a change that affects the verification.

*§749.925. Temporary Foster Home Verifications.*

(a) A child-placing agency (CPA) may issue a temporary foster home (home) verification when a foster family moves from one residence to another.

(b) The temporary verification is valid for a maximum of six months from the date the temporary verification was issued and cannot be extended.

(c) Within 30 days after the foster family moves to the new residence, the CPA must inspect the new residence for compliance with health and safety requirements in this chapter.

(d) Before issuing the non-expiring home verification, the CPA must ensure the home meets all the requirements in this chapter.

(e) The CPA cannot place a new child in the care of the home until the non-expiring verification is issued.

*§749.929. Previously Verified Foster Homes.*

(a) For a foster home (home) previously verified by another child-placing agency (CPA), the receiving CPA must conduct and complete a new home screening as required in this subchapter.

(b) If a home is transferring from another CPA, the receiving CPA must request information about the home by submitting a written request to the agency that transferred the home.

(c) If the home is transferring from another CPA with a child in care, the receiving CPA may verify the home before completion of the background check.

*§749.931. Releasing Information About a Previously Verified Foster Home.*

(a) A child-placing agency (CPA) must release background information about a current or previous foster home (home) to:

(1) another CPA conducting a home screening, pre-adoptive home screening, or post-placement adoptive report; or

(2) an independent contractor who is hired or required by the court to conduct a social study under Texas Family Code, Chapter 107, Subchapter D.

(b) Background information includes:

(1) the home screening and any related documentation or addendums;

(2) documentation of supervisory visits and evaluations for the past year;

(3) records of deficiencies and resolutions for the past year, including information regarding pending investigations and unresolved deficiencies;

(4) the most current fire and health inspections or checklists;

(5) the transfer or closing summary for the home;

(6) copies of any current or previous plans to achieve compliance or other type of development plan implemented by Child Care Regulation or the CPA for the past two years, if applicable;

(7) copies of any current or previous corrective action or adverse action plans for the past two years, if applicable; and

(8) information of any pending investigations and any unresolved deficiencies.

(c) A CPA must release the background information to the requesting CPA or independent contractor by the 10th day after receiving the written request, including informing the requesting agency of any pending investigations and unresolved deficiencies. By the 10th day after completion of any pending investigations and unresolved deficiencies, the CPA must release to the requesting agency the:

(1) outcome of any investigations and any resulting deficiencies cited; and

(2) resolution of any deficiencies.

*§749.935. Foster Homes that Provide Day Care.*

A foster home (home) may provide child day care in addition to foster care under the following conditions:

(1) the home meets all relevant laws and rules related to the care the home is providing;

(2) the child-placing agency completes a written assessment, signed by child placement management staff, of the:

(A) needs of each child in care of the home and how the needs of the children receiving day care services may impact each child receiving foster care services; and

(B) basis for determining no conflict of care exists in providing multiple types of care; and

(3) Child Care Regulation approves the child day care services provided.

*§749.937. Transferring or Closing a Foster Home.*

(a) A child-placing agency (CPA) must complete a transfer summary or closing summary when a foster home (home) transfers to another CPA or closes.

(b) A transfer summary and a closing summary must include:

(1) a copy of the verification certificate;

(2) the home's addresses for the past two years and, as needed, directions for rural addresses;

(3) the length of time the foster parents have been verified by the CPA;

(4) for the last two years, the:

(A) number of children fostered;

(B) type of treatment services provided to each child in care; and

(C) reason for the discharge of each child in care;

(5) a description of any limitations on the verification that were in place for the home in caring for and working with a child in care;

(6) a description of any risk indicators to a child in care at the time of the transfer or closing;

(7) any plan to achieve compliance or other type of development plan that was in place within the previous 12 months of the date of transfer or closing;

(8) any Texas Health and Human Services Commission Agency Home Closure Recommendation form, corrective action plan, or adverse action plan that was in place at the time of transfer or closing; and

(9) a statement concerning whether the CPA would recommend the home for verification in the future, including whether the CPA would recommend any limitations or restrictions on the verification, and the basis of the CPA's recommendation.

(c) A transfer summary must also:

(1) include pending investigations or unresolved deficiencies;

(2) be completed by the 10th day after a CPA receives a written request to transfer and the transferring CPA must forward it immediately to the requesting CPA.

(d) A closing summary must also:

(1) include the reason the home is closing, including whether the CPA required the home to close;

(2) include a description of any pending investigations and unresolved deficiencies

(3) include the CPA's recommendation whether to reopen a home; and

(4) be completed by the 20th day after a home is closed.

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## DIVISION 3. CAPACITY AND SUPERVISION

### 26 TAC §§749.951, 749.953, 749.955, 749.957, 749.959

STATUTORY AUTHORITY

The new sections are authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

*§749.951. Capacity and Child/Caregiver Ratio.*

(a) A one-parent or two-parent foster home (home) may care for up to six children, with the following guidelines:

(1) if a home cares for infants, the home may care for up to six children with:

(A) a maximum of two infants; and

(B) no more than four children less than six years old.

(2) If a home cares for a child receiving treatment services for primary medical needs requiring total care and has two caregivers (two foster parents or one foster parent and a live-in caregiver), the home may care for up to:

(A) six children, with up to three children who receive treatment services for primary medical needs requiring total care; or

(B) four children if all children receive treatment services for primary medical needs requiring total care.

(3) If the home cares for a child receiving treatment services for primary medical needs requiring total care and has one foster parent, the home may care for up to:

(A) four children, with a maximum of one child who receives treatment services for primary medical needs requiring total care; or

(B) two children, if all children receive treatment services for primary medical needs requiring total care.

(b) The exceptions in subsection (a) of this section do not apply to:

(1) placements that are necessary to maintain a sibling group; or

(2) homes verified to provide treatment services to a child with primary medical needs before January 1, 2015.

(c) The capacity of a home includes children in care, as well as adopted and biological children living in the home, children receiving respite services, and children for whom the home provides daycare. Young adults in care also count towards the capacity.

(d) The child-placing agency must check and document in the home record the reason the home can take care of the number of children allowed in the home, including how the CPA considered the following:

(1) number of caregivers;

(2) services being provided and the needs of the children in the home;

(3) developmental age and any medical needs of the children in the home and in placement; and

(4) physical space and bathroom accommodations in the home.

*§749.953. Expanding Capacity of a Foster Home.*

A foster home (home) may care for seven or eight children as recommended by a child-placing agency (CPA) and approved by Child Care Regulation (CCR). To approve expanding the home's capacity, the CPA must:

(1) complete the CCR Foster Family Home Capacity Exception Form; and

(2) request and obtain a variance from CCR.

*§749.955. Supervision.*

(a) The child placement management staff must ensure that supervision of a child in care adequately accounts for:

(1) the specific needs of the child in care, including any history of high-risk behaviors that would require additional supervision; and

(2) the environment where the supervision is taking place.

(b) A caregiver is responsible for:

(1) knowing which children in care the caregiver is responsible for;

(2) providing the level of supervision necessary to ensure the health, safety and well-being of each child in care, including auditory and/or visual awareness of the ongoing activity of each child in care as appropriate;

(3) being available and able to intervene when necessary to ensure the safety of each child in care; and

(4) being aware of any special supervision needs based on the developmental age, maturity, and service plan restrictions of the child in care.

(c) When a child in care participates in an unsupervised childhood activity, the caregiver must know:

(1) where the child in care is scheduled to be and who the child in care will be with; and

(2) how and when the child in care will be returning home.

*§749.957. Supervision with Video Cameras.*

(a) Video cameras may only be used to supervise, or watch live, a child in care, who is an infant or toddler, unless:

(1) the parents or individual legally allowed to provide permission for the child in care agree to using video cameras; and

(2) the service plan for the child in care notes that using video cameras to help manage risky behaviors or other situations that need extra supervision is acceptable.

(b) If video cameras are allowed:

(1) the video cameras must be placed so that the child in care can have privacy when changing clothes and using the bathroom; and

(2) the video cameras may not be used to record the child in care.

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## DIVISION 4. BABYSITTING, OVERNIGHT CARE, AND RESPITE CARE

### 26 TAC §§749.973, 749.975, 749.977

STATUTORY AUTHORITY

The new sections are authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

*§749.973. Children in Care as Babysitters.*

(a) A child, including a child in care, may serve as a babysitter for another child in the foster home if the child placement management staff approves the child to babysit and establishes limits with duration and frequency.

(b) A child-placing agency must consider:

(1) the developmental age of the child who will provide the babysitting; and

(2) any known history of high-risk behaviors of the child providing the babysitting and the child in the care of the babysitter.

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## SUBCHAPTER H. HEALTH AND SAFETY REQUIREMENTS

## DIVISION 1. PHYSICAL ENVIRONMENT SAFETY

### 26 TAC §§749.1001, 749.1003, 749.1005, 749.1007, 749.1009, 749.1011, 749.1013, 749.1015, 749.1017, 749.1019

STATUTORY AUTHORITY

The new sections are authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

*§749.1001. Physical Environment of a Foster Home.*

(a) The foster home (home) and all structures and equipment on the property's grounds must be kept in a clean, safe, and sanitary condition and be in a reasonable state of repair.

(b) A home must ensure that indoor and outdoor space and equipment do not pose an undue safety risk to children in care.

(c) Caregivers must provide adequate supervision to prevent access to space or equipment that poses a safety risk to a child in care as needed based on the age, maturity, and service plan restrictions of a child in care.

(d) A home must have heating and cooling that is appropriate for the season and geographic region.

(e) A home must maintain first aid supplies.

*§749.1003. Health Inspections.*

(a) A foster home (home) must have either:

(1) a health inspection conducted by the local health authority; or

(2) a health and safety evaluation conducted by the child-placing agency's child placement staff using the Environmental Health Checklist for Foster Homes form.

(b) A home must correct any deficiencies documented during any inspection or evaluation and comply with any timeframe, conditions, or restrictions specified by the inspector or evaluator.

*§749.1005. Fire Inspections.*

(a) A foster home (home) must have either:

(1) a fire inspection conducted by a state or local fire authority; or

(2) when a state or local fire authority cannot conduct the inspection, a fire safety evaluation developed and conducted by the child-placing agency's child placement staff.

(b) A home must correct any deficiencies documented during any inspection or evaluation and comply with any conditions or restrictions specified by the inspector or evaluator.

*§749.1007. Fire Safety.*

(a) A foster home (home) must have working smoke detectors in the following areas:

(1) the kitchen;

(2) hallways or open areas outside of sleeping spaces; and

(3) on each level of a home with multiple levels.

(b) If the home has a gas appliance, propane space heater, fireplace, wood stove, or attached garage, the home must have at least one carbon monoxide detector.

(c) The home must have one non-expired, operational fire extinguisher that is easily accessible in case of emergency.

(d) A home must have an exit, either a door or window, from the home and each child's sleeping space that is:

(1) unblocked;

(2) large enough for a child to get through; and

(3) an exit to the outside.

*§749.1009. Emergency Plans.*

(a) A foster home (home) must have a written plan for handling potential disasters and emergencies, including fire and severe weather. This plan can be made using a template provided by the child-placing agency (CPA).

(b) The CPA that verified the home must annually review and evaluate the plan with all caregivers and children in care. All reviews of the plan must be communicated in a way that each caregiver and child in care understands.

(c) A home must practice the emergency plan with children in care within the first month of placement.

*§749.1013. Tobacco and E-Cigarette Use.*

Household members and visitors are not allowed to smoke tobacco products, cigarettes, e-cigarettes, or vaporizers in front of a child in care inside the foster home or motor vehicle while transporting children in care.

*§749.1017. Transportation.*

(a) Caregivers must utilize safe and reliable transportation for a child in care.

(b) Special provisions must be made for transporting non-ambulatory and non-mobile children in care. When necessary, this includes locks for wheelchairs and hydraulic lifts.

(c) A caregiver must secure each child in care in an infant safety seat, rear-facing convertible child safety seat, forward-facing child safety seat, child booster seat, safety vest, harness, or a safety belt, as appropriate to the age, height, and weight of the child in care and according to the manufacturer's instructions and law.

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## DIVISION 2. WEAPONS, FIREARMS, EXPLOSIVE MATERIALS, AND PROJECTILES

**26 TAC §§749.1031, 749.1033, 749.1035, 749.1037**

STATUTORY AUTHORITY

The new sections are authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

*§749.1035. Determining if Weapons, Firearms, Explosive Materials, or Projectiles are Present in a Foster Home.*

(a) When a child-placing agency (CPA) completes a foster home (home) screening, the CPA must ask whether weapons, firearms, explosive materials, or projectiles are present in the home. If these items are present, the CPA must review the CPA's weapons, firearms, explosive materials, and projectiles policy and requirements with the prospective foster parents.

(b) The home record must include documentation on:

(1) whether weapons, firearms, explosive materials, or projectiles are present in the home; and

(2) specific precautions the caregivers will take to ensure children in care do not have unsupervised access.

(c) The annual evaluation of the home's compliance with this chapter must include a discussion of whether the home has weapons, firearms, explosive materials, or projectiles, and if so, how these items are stored.

(d) In complying with this rule, a CPA may not require the home to disclose the specific types of firearms that are stored or otherwise present in the home.

(e) In complying with this rule, a CPA may not require the home to notify the CPA if there is any change in the types of firearms that are present in the home.

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## DIVISION 3. SLEEPING SPACE AND BATHROOM REQUIREMENTS

**26 TAC §749.1051, §749.1053**

STATUTORY AUTHORITY

The new sections are authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

*§749.1051. Indoor Space: Sleeping Spaces and Sleeping Surfaces.*

(a) Each child in care must have a designated sleeping space with an individual sleeping surface, such as a bed or mattress, and linens. Up to four children may share a sleeping space with approval from the child placement management staff (CPMS).

(b) Sleeping spaces and surfaces must fit the needs, developmental level, and age of the child in care.

(c) Before approving a child in care to share a sleeping space or sleeping surface, the CPMS must determine and document in the service plan of the child in care there is no known risk of harm to the child in care by sharing a sleeping space or sleeping surface with the other individual after assessing:

(1) the relationship between the child in care and the individual;

(2) the ages and developmental levels of the child in care and the individual, noting that after the 18th birthday of the child in care, the child in care may share a sleeping space with another youth who is 16 years old or older, provided the age difference does not exceed two years;

(3) the behaviors of the child in care and the individual;

(4) any history of possible sexual trauma or sexually inappropriate behaviors of the child in care or the individual; and

(5) any other identifiable factors that may affect the appropriateness of the individual and the child in care sharing a sleeping space.

(d) CPMS may not approve an infant to share a sleeping surface.

(e) A child in care over the age of five must not share a room used as a sleeping space with a child of the opposite sex.

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## DIVISION 4. POOLS AND WATER ACTIVITIES

**26 TAC §§749.1061, 749.1063, 749.1065**

STATUTORY AUTHORITY

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## SUBCHAPTER I. FOSTER HOME MANAGEMENT AND EVALUATION

**26 TAC §§749.1101, 749.1103, 749.1105, 749.1107, 749.1109**

STATUTORY AUTHORITY

The new sections are authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

*§749.1101. Foster Home Verification Change Management.*

(a) A child-placing agency (CPA) must monitor a foster home (home) for changes that invalidate the home's verification.

(b) If something happens that makes a home's verification invalid, a new or temporary verification must be given after the CPA checks that the home follows the laws and rules in this chapter.

(c) Changes that automatically invalidate a home's verification include:

(1) marriage, divorce, separation, death, birth, or any other change in household composition;

(2) changes in the home's address or location;

(3) changes in the number of children a home may have in care;

(4) changes in the ages or sex of children for whom the home is authorized to provide care; and

(5) changes in the types of services the home will provide.

(d) A home must notify its respective CPA of an active criminal investigation or an investigation by the Texas Department of Family and Protective Services.

*§749.1103. Foster Home Compliance Evaluation.*

(a) A child-placing agency (CPA) must complete an annual evaluation to ensure a foster home (home) is following all the laws and rules that apply to the home.

(b) The CPA must evaluate a home's compliance with relevant laws and rules each time:

(1) there is an allegation of a deficiency in the home;

(2) there is a major life change in the home that invalidates the verification; or

(3) the CPA receives a report of family violence at the home from the Texas Department of Family and Protective Services.

(c) When a deficiency is found during an evaluation, the CPA must:

(1) develop a plan to achieve compliance that includes:

(A) a list of all the actions or changes the home needs to make to correct deficiencies, including:

*(i)* how much time the home has to correct the deficiencies; and

*(ii)* what will happen if the deficiencies are not corrected; and

(B) a decision about whether a child in care may stay in the home and if the home may accept a new child into care before the deficiencies are corrected; and

(2) ensure the home corrects any deficiencies by either inspecting the home again or obtaining proof that issues are corrected.

*§749.1109. Ongoing Monitoring Documentation Requirements.*

A child-placing agency (CPA) must document and maintain the following information in the foster home's (home's) record.

(1) When checking the home for compliance or completing a supervisory visit:

(A) the date the evaluation or supervisory visit was completed and the household members present;

(B) a summary of the topics talked about, which rules were checked, and any deficiencies found, signed by each foster parent present;

(C) the CPA's plan to correct any deficiencies found; and

(D) a follow-up plan including proof that all deficiencies have been corrected.

(2) For a home on inactive status:

(A) the agreement between the CPA and foster parents that the home will be placed on inactive status and will not accept placement; and

(B) when a home on inactive status wishes to return to active status, the CPA must check and ensure that the home is following all laws and rules in this chapter and has done the necessary background checks. The CPA must document this before a child can be placed in the home.

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## SUBCHAPTER J. ADMISSION AND PLACEMENT

### 26 TAC §§749.1201, 749.1203, 749.1205, 749.1207, 749.1209, 749.1211, 749.1213, 749.1215, 749.1217

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*§749.1201. Admission Criteria.*

(a) A child-placing agency (CPA) may admit a child or young adult for placement in a foster home (home) after ensuring:

(1) the child or young adult meets the CPA's admission policy;

(2) the CPA and home can provide the services the child or young adult requires; and

(3) the home can meet the child or young adult's specific needs.

(b) The CPA may admit a young adult into the care of a home if the young adult:

(1) comes immediately from another residential child-care operation;

(2) will continue to need the same level of care and is unlikely to physically or intellectually progress over time; and

(3) is in the legal custody of the Texas Department of Family and Protective Services.

(c) A child, at least 14 years old, or young adult may be admitted to a CPA's transitional living program as a non-emergency admission.

*§749.1211. Pre-Placement Requirements.*

(a) Before placement, child placement staff must:

(1) ensure the placement is suitable for the needs and behaviors of the child in care by using the initial admission information and the home study for the foster home (home); and

(2) talk to the child in care about why the child in care is being placed and confirm the understanding and response of the child in care.

(b) For non-emergency placements, a child at least six months of age or older in care must visit the home at least once before placement.

(c) During the pre-placement visit, child placement staff must observe the interaction between the child in care and household members.

(d) There must be time between the pre-placement visit and placement to allow the child in care and foster parents to each meet privately with child placement staff to discuss and consider placement.

*§749.1213. Post-Placement Visits.*

(a) Child placement staff must have monthly in-person visits with each child in care.

(b) Monthly visits must meet the following requirements.

(1) At least half of the visits must occur in the foster home.

(2) The child placement staff must ensure the child in care is safe and the basic needs of the child in care are being met.

(3) The visits must:

(A) be for a length of time to address the needs and behaviors of a child in care who is verbal, or observe the child in care if they are non-verbal;

(B) provide an opportunity to meet privately; and

(C) provide an opportunity for the child in care to discuss feelings about how the placement is working out.

*§749.1215. Ongoing Placement of Young Adults.*

When a young adult continues living in a foster home or child-placing agency after turning 18 years old, the young adult may share a sleeping space with a youth who is 16 years of age or older, provided the age difference between the youth and young adult does not exceed two years.

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## SUBCHAPTER K. SERVICE PLANNING AND DISCHARGE

## DIVISION 1. SERVICE PLANNING

### 26 TAC §§749.1231, 749.1233, 749.1235, 749.1237

STATUTORY AUTHORITY

The new sections are authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

*§749.1231. General Service Plan Requirements.*

(a) A child-placing agency (CPA) must use and follow the most recent service plan for a child in care.

(b) To meet service plan requirements, the CPA must:

(1) use the most recent service plan for the child in care, developed by the agency that referred the child in care for placement, if the plan meets the criteria established in this division; or

(2) complete the initial service plan and service plan reviews using the criteria established in this division.

(c) The CPA must allow a child in care to help develop the service plan for the child in care.

(d) The CPA must provide the service plan to the child in care, the caregivers for the child in care, and the professional service providers working with the child in care within five days after the plan is completed.

*§749.1235. Service Plan Requirements for Psychosocial Assessment.*

For a child in care receiving treatment services for emotional disorders, autism spectrum disorder, or intellectual disabilities, the child-placing agency must obtain a written, dated, and signed psychosocial assessment, or equivalent assessment or evaluation, completed within:

(1) 14 months after the date of admission, if the child in care is coming from another regulated residential child-care operation; or

(2) six months after the date of admission if the child in care is not coming from another regulated residential child-care operation.

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## DIVISION 2. DISCHARGE AND TRANSFER PLANNING

### 26 TAC §749.1251, §749.1253

STATUTORY AUTHORITY

The new sections are authorized by 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 agencies, and Texas

Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

*§749.1251. Discharge and Transfer Requirements.*

(a) The child-placing agency (CPA) must:

(1) have at least one person from the service planning team for the child in care help with planning the discharge or transfer for the child in care;

(2) consult with the service planning team about whether the child in care should be told in advance about the discharge or transfer and follow the team's recommendations; and

(3) if the service planning team decides the child in care should be told in advance about the discharge or transfer, inform the child in care at least four days before the date of discharge or transfer.

(b) The CPA may discharge a child in care to:

(1) the parent of the child in care;

(2) anyone with written authorization from the parent; or

(3) a person authorized by a court or by law to assume custody of the child in care.

(c) When discharging or transferring a child in care the CPA must:

(1) ensure one of the caregivers for the child in care or child placement staff goes with the child in care to the new placement unless the parent of the child in care or law enforcement is transporting the child in care;

(2) provide the prescribed medications for the child in care to the person the child in care is discharged or transferred to; and

(3) provide the belongings of the child in care to the child, the parent of the child in care, or the person the child in care is discharged or transferred to.

(d) The CPA must provide a discharge or transfer summary to the receiving placement or caregiver within 15 days after the child in care is discharged or transferred, which includes:

(1) a summary of:

(A) services provided to the child in care;

(B) an assessment of the current behaviors and needs of the child in care, and recommended services to meet those needs;

(C) upcoming appointments; and

(D) identified resources to support the child in care with the transition, including contact information; and

(2) The background information of the child in care, including unresolved incidents or investigations, and previous assessments and evaluations performed.

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## SUBCHAPTER L. CHILD RIGHTS

### 26 TAC §§749.1301, 749.1303, 749.1305, 749.1307

STATUTORY AUTHORITY

The new sections are authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

*§749.1303. Child Rights.*

The rights of a child in care include any other rights given by law or other Child Care Regulation rules. A child-placing agency (CPA) must follow the child's rights, which include the following.

(1) Safety and care.

(A) The right to care and treatment that meets the needs of the child in care in the most family-like setting possible.

(B) The right to be free from abuse, neglect, and exploitation.

(C) The right to fair treatment.

(2) Family contacts. The right to maintain regular contact with the parents, siblings, and other extended family of the child in care, unless restrictions are necessary to protect the health, safety, or well-being of the child in care, as determined by the service plan or a court order.

(3) Living a normal life.

(A) The right to communicate in the way the child in care prefers. The CPA must make every reasonable effort to place the child in the care of foster parents who can communicate with the child.

(B) The right to receive educational services appropriate to the age and developmental level of the child in care.

(C) The right to have the religious needs of the child in care met.

(D) The right to participate in childhood activities, including those with the foster family and other activities outside the home, suitable for the age and development of the child in care.

(E) The right to privacy, which includes sending and receiving unopened mail, making and receiving phone calls, keeping a personal journal, and having visitors, unless it is necessary to limit these activities to keep the health, safety, or well-being of the child in care protected, as determined by the service plan or a court order.

(F) The right to personal care, hygiene, grooming equipment and supplies, and training in how to use them.

(G) The right to have comfortable clothes, including shoes, that fit well and are similar to what other children in the com-

munity wear and teenagers should have opportunities to pick out their own clothes.

(H) The right to clothing and shoes that protect the child in care against the weather.

(I) The right to have personal items at the foster home of the child in care and to get additional personal items when needed.

(J) The right to personal space in the sleeping space of the child in care to store clothes and belongings.

(K) The right to be informed of search policies and free of unreasonable searches and unreasonable removal of personal items.

(L) Depending on the age and maturity of the child in care, the right to seek employment, keep money belonging to the child in care, and have a bank account in the name of the child in care.

(M) The right to consent in writing before taking part in any publicity or fund-raising activity for the home or the CPA, including the use of the photograph of the child in care, and to withdraw the consent.

(N) The right to refuse to make public statements showing gratitude to the home or the CPA.

(O) The right to not be pressured to make a medical decision about a pregnancy, give up a child for adoption, or parent the child, if applicable.

(4) Discipline.

(A) The right to be free from any harsh, cruel, unusual, unnecessary, demeaning, or humiliating treatment or punishment; this means the child in care must not be:

*(i)* shaken;

*(ii)* subjected to or threatened with corporal punishment, including spanking or hitting the child in care;

*(iii)* forced to be outside in excessive heat or cold for excessive periods;

*(iv)* forced to do unproductive work that serves no purpose except to demean the child in care, such as moving rocks from one pile to another or digging a hole and then filling it in;

*(v)* denied food, sleep, a bathroom, mail, or family visits as punishment;

*(vi)* subjected to remarks that belittle or ridicule the child in care or the family of the child in care;

*(vii)* threatened with the loss of placement or shelter as punishment;

*(viii)* subjected to demeaning behavior to embarrass, control, harm, intimidate, or isolate the child, "demeaning behavior" may include using physical force, rumors, threats, or inappropriate comments; and

*(ix)* subjected to emergency behavior intervention as punishment, aversive conditioning, or rebirthing, hug, or holding therapy.

(B) The right to discipline that is appropriate to the age, maturity, and developmental level of the child in care.

(C) The right to have restrictions or disciplinary policies explained to the child in care at admittance and when the measures are imposed.

(5) Plans for the child while in care.

(A) The right to have a comprehensive service plan that addresses the needs of the child in care, including transitional and discharge planning.

(B) The right to actively participate in the development of the service plan within the limits of the comprehension of the child in care. The child in care has the right to a copy or summary of the plan. A child 14 years old or older in care has the right to review and sign the service plan.

(6) Medical care and records.

(A) The right to medical, dental, vision, and mental health care and developmental services that adequately meet the needs of the child in care.

(B) The right to request that the care or services be separate from adults (other than young adults in care) who are receiving services.

(C) The right to be free of unnecessary or excessive medication.

(D) The right to confidential care and treatment, including keeping medical records and agency records private and only discussing the records when necessary to provide the child with care.

(7) Complaints.

(A) The right to make anonymous calls, reports, or complaints without interference, coercion, punishment, retaliation, or threats of punishment or retaliation.

(B) The child in care has the right to contact:

*(i)* the Texas Department of Family and Protective Services Abuse/Neglect Hotline;

*(ii)* the Texas Health and Human Services Commission Ombudsman for Children and Youth in Foster Care;

*(iii)* the DFPS Office of Consumer Affairs; and

*(iv)* Disability Rights Texas.

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## SUBCHAPTER M. DAILY CARE, EDUCATION, AND DISCIPLINE

### 26 TAC §§749.1401, 749.1403, 749.1405, 749.1407, 749.1409, 749.1411, 749.1413, 749.1415, 749.1417, 749.1419, 749.1421, 749.1423

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*§749.1419. Normalcy and Reasonable and Prudent Parent Requirements.*

A foster parent must ensure a child in care can participate in childhood activities, including unsupervised activities, using the reasonable and prudent parent standard. For a child in care, the foster parent must consider the:

(1) age, level of maturity, overall abilities and developmental level, and desires; and

(2) behavioral history and ability to safely participate in a proposed activity considering the surrounding circumstances, hazards, risks, and supervision of the activity.

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
Chief Counsel
Health and Human Services Commission
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For further information, please call: (512) 438-3269

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## SUBCHAPTER N. MEDICAL AND DENTAL REQUIREMENTS

### 26 TAC §§749.1501, 749.1503, 749.1505

STATUTORY AUTHORITY

The new sections are authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

*§749.1501. General Medical, Dental, and Medication Requirements.*

(a) A child in care must receive timely routine and emergency medical and dental care.

(b) At admission, a child-placing agency (CPA) must verify whether a child in care has had a medical examination within the past year and a dental examination within the past year, if the child in care is at least six months old. If the CPA determines that a child in care has not had one of these examinations during that time frame, the CPA must schedule any medical or dental examinations the child in care may need.

(c) Only someone who is trained and allowed to provide medicine can do so.

(d) The CPA must ensure caregivers follow orders and recommendations from a physician or other health-care professional.

(e) All medications must be stored securely and properly according to the label's instructions and in a way that makes the medications inaccessible to children in care.

(f) A child in care may only self-administer medication after the CPA:

(1) obtains written parental consent for the child in care to self-administer medication;

(2) updates the service plan to include the self-administration of medication and any requirements for caregiver supervision; and

(3) consults with the health-care professional who prescribed the medication and notes any concerns of the health-care professional in the record for the child in care.

*§749.1505. Documentation Requirements for Medical and Dental Care.*

(a) A child-placing agency (CPA) must verify that the following is documented either in the record or in the health passport, if applicable, of a child in care:

(1) each medical and dental visit or hospitalization, including a discharge summary;

(2) applicable immunization requirements; and

(3) any known contraindicated prescription, non-prescription medications, and supplements.

(b) The foster home (home) must document and maintain in the record of a child in care:

(1) a daily medication log for each prescription medication administered to a child in care of any age, and non-prescription medication or supplement dispensed to a child in care under five years old; and

(2) documentation of all medication errors, adverse reactions, and side effects of a medication.

(c) The CPA must provide the daily medication log to the foster parents. The log must include:

(1) the name of the child in care and the person who administered the medication or supplement;

(2) the name, strength, and dosage of the medication or supplement administered; and

(3) the date and time the medication or supplement was administered.

(d) The CPA must provide the documentation form for medication errors, adverse reactions, and side effects to the foster parents. The form must include:

(1) the name of the child in care;

(2) the name of the medication;

(3) a description of the error, adverse reaction, or side effect; and

(4) how the caregiver ensured the safety of the child in care.

(e) When a child in care self-administers a dose of medication, the home must review the medication and record the daily dosage.

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 O. EMERGENCY BEHAVIOR INTERVENTION REQUIREMENTS
## DIVISION 1. ADMINISTERING EMERGENCY BEHAVIOR INTERVENTION

**26 TAC §§749.1601, 749.1603, 749.1605, 749.1607**

STATUTORY AUTHORITY

The new sections are authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

*§749.1601. Types of Emergency Behavior Intervention (EBI).*

(a) A child-placing agency (CPA) must use an emergency behavior intervention (EBI) program that meets the requirements of this chapter.

(b) EBI may only be used in a situation where preventative de-escalation and redirection has not effectively reduced the risk of injury, so immediate intervention is necessary to prevent:

(1) imminent probable death or substantial physical injury to the child in care; or

(2) imminent physical harm to another individual because of the overt actions of a child in care.

(c) A caregiver may only implement EBI using personal restraints, short personal restraints, and emergency medication. A caregiver may not use chemical restraints, mechanical restraints or seclusion.

(d) A personal restraint uses physical force to restrict free movement of all or part of the body of a child in care to control physical activity. Only a caregiver allowed by the CPA's policies and trained in the CPA's EBI curriculum may administer a personal restraint.

(e) A transitional hold is a temporary restraint technique that lasts no longer than one minute as part of the continuation of a longer personal restraint.

(f) Short personal restraints are personal restraints lasting no longer than one minute that are used in urgent situations. Any caregiver may administer a short personal restraint.

(g) Emergency medications to modify the behavior of a child in care. Only a caregiver allowed by the CPA's policies and trained in the CPA's EBI curriculum may administer an emergency medication.

*§749.1603. Administering Emergency Behavior Intervention (EBI) Requirements.*

(a) Before administering an emergency behavior intervention (EBI), a caregiver must determine an emergency situation exists.

(b) During an EBI, the caregiver must:

(1) use the minimal amount of reasonable and necessary physical force;

(2) protect the health, safety and well-being of a child in care; and

(3) explain to the child in care what behaviors are necessary to be released from the short personal or personal restraint and consider actions the caregiver can take to help the child in care de-escalate.

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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## DIVISION 2. FOLLOW-UP ACTIONS AND DOCUMENTATION

**26 TAC §§749.1621, 749.1623, 749.1625**

STATUTORY AUTHORITY

The new sections are authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

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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## DIVISION 3. TRIGGERED REVIEWS AND ANNUAL OPERATION EVALUATION

**26 TAC §§749.1631, 749.1633, 749.1635**

STATUTORY AUTHORITY

The new sections are authorized by 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 agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

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 31. NATURAL RESOURCES AND CONSERVATION

## PART 10. TEXAS WATER DEVELOPMENT BOARD

### CHAPTER 356. GROUNDWATER MANAGEMENT

The Texas Water Development Board (TWDB) adopts 31 Texas Administrative Code (TAC) §§356.32, 356.42, 356.52, and 356.54. The proposal is adopted without changes as published in the April 17, 2026, issue of the *Texas Register* (51 TexReg 2496). The rules will not be republished.

BACKGROUND AND SUMMARY OF THE FACTUAL BASIS FOR THE ADOPTED AMENDMENT.

The TWDB proposes amendments to Subchapters C. D, and E, 31 TAC Chapter 356, containing the agency's rules related to Groundwater Management. The TWDB proposes to amend the rules to implement relevant provisions of House Bill 2078, 89th Regular Session (HB 2078) and Senate Bill 1583, 89th Regular Session (SB 1583). TWDB is proposing this rulemaking primarily to modernize, update, and clarify rule language to facilitate groundwater management in the state and to clarify requirements for groundwater conservation districts.

HB 2078 amended Chapter 36 of the Water Code by requiring groundwater conservation district representatives within a groundwater management area to review each district's management plan at least once during each five-year planning period. In reviewing management plans, districts in the groundwater management area must consider the degree to which each district is achieving desired future conditions through the implementation of its management plan and rules. Additionally, the districts and district representatives within a groundwater management area are required to adopt and identify interim values for the desired future conditions for each 50-year planning period. This proposed rulemaking implements HB 2078's additional responsibilities of the groundwater conservation district representatives.

HB 2078 amended Chapter 36 of the Water Code by adding additional information that groundwater conservation districts must include in a groundwater management plan. The groundwater management plan must include an explanation in plain language of how the district monitors and tracks desired future conditions and how the district has performed in achieving the desired future conditions of the preceding five-year joint planning period. SB 1583 amended Chapter 36 of the Water Code by requiring groundwater conservation districts to include the most recently approved desired future conditions in the groundwater management plan. This proposed rulemaking implements HB 2078's and SB 1583's additional groundwater management plan requirements.

SB 1583 amended Chapter 36 of the Water Code by clarifying which desired future condition and modeled available groundwater amounts a groundwater conservation district must include in its management plan in the event a petition is filed challenging the reasonableness of a groundwater conservation district's adopted desired future condition. The groundwater conservation district management plan is considered administratively complete by the TWDB Executive Administrator if the plan includes, in addition to the information required by Section 36.1071(a) and (e), the most recently approved desired future conditions, the amount of modeled available groundwater corresponding to those desired future conditions, and a statement on the status of the petition. This applies until a final order is issued or the desired future condition is found to be unreasonable and a new desired future condition is adopted. This proposed rulemaking implements SB 1583's clarification for which desired future condition and modeled available groundwater amounts should be included for an administratively complete groundwater conservation district management plan in the event there is a contested desired future condition.

SB 1583 amended Chapter 36 of the Water Code by requiring a groundwater conservation district to amend the management plan prior to the second anniversary of adopting new desired future conditions. This proposed rulemaking implements SB 1583's required approval for a groundwater conservation district management plan.

SECTION BY SECTION DISCUSSION OF ADOPTED AMENDMENTS.

Section 356.32. Desired Future Conditions Package.

The amendment proposes to add §356.32(b) to implement HB 2078's additional responsibilities of the groundwater conservation district representatives in adopting desired future conditions. An amendment is also proposed to rename §356.32 to §356.32(a) for clarification.

Section 356.42. Petition: Mediation of Issues.

The amendment proposes adding §356.42(e) to implement SB 1583's clarification of management plan requirements for administrative completeness in the event that a desired future condition is challenged for reasonableness.

The amendment proposes adding 356.42(f) to implement SB 1583, which establishes application of the management review process when a desired future condition is challenged.

Section 356.52. Required Content of Management Plan.

The amendment proposes to add §356.52(a)(8) to implement SB 1583's most recently approved desired future conditions requirement for a groundwater conservation district's groundwater management plan. The amendment proposes to add §356.52(a)(9) to implement HB 2078's additional groundwater management plan requirements. Amendments are also proposed for §356.52(a)(6)(A) to account for the addition of proposed criterion and for §356.52(c) to correct an error.

Section 356.54. Approval.

The amendment proposes §356.54(a) to implement SB 1583's requirements for an administratively complete groundwater conservation district management plan, including management plans with petitions challenging the reasonableness of a desired future condition.

The amendment proposes to add §356.54(d) to implement SB 1583's required amended management plan prior to the second anniversary of the adoption of desired future conditions.

REGULATORY IMPACT ANALYSIS DETERMINATION (Texas Government Code §2001.0225)

The TWDB reviewed the rulemaking in light of the regulatory analysis requirements of Texas Government Code §2001.0225 and determined that the rulemaking is not subject to Texas Government Code §2001.0225, because it does not meet the definition of a "major environmental rule" as defined in the Administrative Procedure Act. A "major environmental rule" is defined as a rule with the specific intent to protect the environment or reduce risks to human health from environmental exposure, a rule that may adversely affect in a material way the economy or a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. The intent of the adopted rulemaking is to implement legislation.

Even if the adopted rulemakings were a major environmental rule, Texas Government Code §2001.0225 still would not apply to this rulemaking because Texas Government Code §2001.0225 only applies to a major environmental rule, the result of which is to: (1) exceed a standard set by federal law, unless the rule is specifically required by state law; (2) exceed an express requirement of state law, unless the rule is specifically required by federal law; (3) exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or (4) adopt a rule solely under the general powers of the agency instead of under a specific state law. This rulemaking does not meet any of these four applicability criteria because it: (1) does not exceed any federal law; (2) does not exceed an express requirement of state law; (3) does not exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; and (4) is not proposed solely under the general powers of the agency, but rather Texas Water Code §§15.001, 16.012, 36.101, 36.1071, 36.1072, 36.1073, 36.108, 36.1083 and 36.1085. Therefore, this rulemaking does not fall under any of the applicability criteria in Texas Government Code §2001.0225.

TAKINGS IMPACT ASSESSMENT (Texas Government Code §2007.043)

The TWDB evaluated this rulemaking and performed an analysis of whether it constitutes a taking under Texas Government Code, Chapter 2007. The specific purpose of this rulemaking is to update and clarify existing rules that are necessary for groundwater management in the state and certain requirements for groundwater conservation districts. The adopted rulemaking would substantially advance this stated purpose by aligning definitions with agency and industry practice and providing greater detail for desired future conditions packages and required elements of groundwater management plans.

The TWDB's analysis indicates that Texas Government Code, Chapter 2007 does not apply to this adopted rulemaking because this is an action that is reasonably taken to fulfill an obligation mandated by state law, which is exempt under Texas Government Code §2007.003(b)(4). The TWDB is the agency that reviewed groundwater conservation management plans for the applicable financial assistance programs.

Nevertheless, the TWDB further evaluated this rulemaking and performed an assessment of whether it constitutes a taking under Texas Government Code Chapter 2007. Promulgation and enforcement of this rulemaking would be neither a statutory nor a constitutional taking of private real property. Specifically, the subject proposed regulation does not affect a landowner's rights in private real property because this rulemaking does not burden, restrict, or limit the owner's right to property and reduce its value by 25% or more beyond that which would otherwise exist in the absence of the regulation. In other words, this rule updates the state's existing rules that facilitate groundwater management without burdening or restricting or limiting the owner's right to property and reducing its value by 25% or more. Therefore, the adopted rulemaking does not constitute a taking under Texas Government Code, Chapter 2007.

PUBLIC COMMENTS (Texas Government Code §2001.033(a)(1))

The TWDB received two public comments, which resulted in no modifications to the proposed language. Belding Farms submitted a comment recommending the groundwater conservation districts be required to disclose efforts to enforce or implement water use and/or permit-required curtailments specifically designed to ensure desired future conditions compliance and protection and preservation of groundwater in the plain language explanation of monitoring and tracking desired future conditions. The TWDB can provide this type of guidance through technical assistance provided to groundwater conservation districts as they draft updates to their management plans. The Greater Edwards Aquifer Alliance submitted a comment supporting TWDB's proposed amendments.

## SUBCHAPTER C. SUBMISSION OF DESIRED FUTURE CONDITIONS

### 31 TAC §356.32

STATUTORY AUTHORITY (Texas Government Code §2001.024(a)(3))

The amendment is adopted under the authority of Texas Water Code §6.101, which provides the TWDB with the authority to adopt rules necessary to carry out the powers and duties in the Water Code and other laws of the State, and also under the authority of Texas Water Code Sections 15.001, 16.012, 36.101, 36.1071, 36.1072, 36.1073, 36.108, 36.1083 and 36.1085.

Additionally, this rulemaking is adopted under the authority of Texas Water Code Chapters 15 and 16.

This rulemaking affects Water Code, Chapters 15, 16, and 36.

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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Ashley Harden
General Counsel
Texas Water Development Board
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For further information, please call: (512) 475-1673

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## SUBCHAPTER D. APPEALING ADOPTION OF DESIRED FUTURE CONDITIONS

### 31 TAC §356.42

STATUTORY AUTHORITY (Texas Government Code §2001.024(a)(3))

The amendment is adopted under the authority of Texas Water Code §6.101, which provides the TWDB with the authority to adopt rules necessary to carry out the powers and duties in the Water Code and other laws of the State, and also under the authority of Texas Water Code Sections 15.001, 16.012, 36.101, 36.1071, 36.1072, 36.1073, 36.108, 36.1083 and 36.1085.

Additionally, this rulemaking is adopted under the authority of Texas Water Code Chapters 15 and 16.

This rulemaking affects Water Code, Chapters 15, 16, and 36.

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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Ashley Harden
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## SUBCHAPTER E. GROUNDWATER MANAGEMENT PLAN APPROVAL

### 31 TAC §356.52, §356.54

STATUTORY AUTHORITY (Texas Government Code §2001.024(a)(3))

The amendment is adopted under the authority of Texas Water Code §6.101, which provides the TWDB with the authority to adopt rules necessary to carry out the powers and duties in the Water Code and other laws of the State, and also under the authority of Texas Water Code Sections 15.001, 16.012, 36.101, 36.1071, 36.1072, 36.1073, 36.108, 36.1083 and 36.1085.

Additionally, this rulemaking is adopted under the authority of Texas Water Code Chapters 15 and 16.

This rulemaking affects Water Code, Chapters 15, 16, and 36.

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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Ashley Harden
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# CHAPTER 358. STATE WATER PLANNING GUIDELINES

## SUBCHAPTER B. DATA COLLECTION

### 31 TAC §358.6

The Texas Water Development Board (TWDB) adopts the repeal of 31 Texas Administrative Code §358.6 as part of a reorganization. The proposal is adopted without changes as published in the April 17, 2026, issue of the *Texas Register* (51 TexReg 2501). The rule will not be republished.

BACKGROUND AND SUMMARY OF THE FACTUAL BASIS FOR THE ADOPTED AMENDMENT.

This rulemaking implements House Bill (HB) 29 from the 89th Texas Legislative Session, codified as Texas Water Code §16.0122. HB 29 created certain new responsibilities for municipally owned utilities that provide potable water through more than 150,000 service connections. This rulemaking covers the portions of Texas Water Code §16.0122 that deal with the Texas Water Development Board's responsibilities.

In a separate filing with the Texas Register, the TWDB adopts new sections within 31 TAC Chapter 358, within a new Subchapter C (relating to Water Loss Audits). With that rulemaking, the TWDB will reorganize the subchapter. The existing text of §358.6, with some amendments, will remain in those new sections.

SECTION BY SECTION DISCUSSION OF ADOPTED AMENDMENTS.

Section 358.6. Water Loss Audits.

TWDB adopts the repeal of this section to renumber the section with adopted changes to the text filed separately in this issue of the *Texas Register*.

REGULATORY IMPACT ANALYSIS DETERMINATION (Texas Government Code §2001.0225)

The TWDB reviewed the rulemaking in light of the regulatory analysis requirements of Texas Government Code §2001.0225 and determined that the rulemaking is not subject to Texas Government Code §2001.0225, because it does not meet the definition of a "major environmental rule" as defined in the Administrative Procedure Act. A "major environmental rule" is defined as a rule with the specific intent to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy or a

sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. The intent of the rulemaking is to clarify requirements for TWDB borrowers and other stakeholders by better organizing these rules.

Even if the rule were a major environmental rule, Texas Government Code §2001.0225 still would not apply to this rulemaking because Texas Government Code §2001.0225 only applies to a major environmental rule, the result of which is to: (1) exceed a standard set by federal law, unless the rule is specifically required by state law; (2) exceed an express requirement of state law, unless the rule is specifically required by federal law; (3) exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or (4) adopt a rule solely under the general powers of the agency instead of under a specific state law. This rulemaking does not meet any of these four applicability criteria because it: (1) does not exceed any federal law; (2) does not exceed an express requirement of state law; (3) does not exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; and (4) is not adopted solely under the general powers of the agency, but rather Texas Water Code §16.0121. Therefore, this rule does not fall under any of the applicability criteria in Texas Government Code §2001.0225.

TAKINGS IMPACT ASSESSMENT (Texas Government Code §2007.043)

The TWDB evaluated this rule and performed an analysis of whether it constitutes a taking under Texas Government Code, Chapter 2007. The specific purpose of this rule is to clarify requirements for TWDB borrowers and other stakeholders. The rule would substantially advance this stated purpose by reorganizing the rules in an easier to read manner.

The TWDB's analysis indicates that Texas Government Code, Chapter 2007 does not apply to this rule because this is an action that is reasonably taken to fulfill an obligation mandated by state law, which is exempt under Texas Government Code §2007.003(b)(4). The TWDB is the agency that implements certain provisions related to water loss audits and validations included in HB 29.

Nevertheless, the TWDB further evaluated this rule and performed an assessment of whether it constitutes a taking under Texas Government Code Chapter 2007. Promulgation and enforcement of this rule would be neither a statutory nor a constitutional taking of private real property. Specifically, the subject rule does not affect a landowner's rights in private real property because this rulemaking does not burden, restrict, or limit the owner's right to property and reduce its value by 25% or more beyond that which would otherwise exist in the absence of the rule. In other words, this rule repeals certain sections for renumbering. Therefore, the rule does not constitute a taking under Texas Government Code, Chapter 2007.

PUBLIC COMMENTS (Texas Government Code §2001.033(a)(1))

The comment period ended on May 18, 2026. No comments were received on this repeal. Comments were received on the associated proposed amendments and will be addressed in that rulemaking filed elsewhere in this issue of the *Texas Register*.

STATUTORY AUTHORITY (Texas Government Code §2001.033(a)(2))

The repeal is adopted under the authority of Texas Water Code §6.101, which provides the TWDB with the authority to adopt rules necessary to carry out the powers and duties in the Water Code and other laws of the State, and also under the authority of Texas Water Code §16.0121.

This rulemaking affects Water Code, Chapter 16.

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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Ashley Harden
General Counsel
Texas Water Development Board
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## SUBCHAPTER C. WATER LOSS AUDITS

### 31 TAC §§358.10 - 358.15

The Texas Water Development Board (TWDB) adopts 31 Texas Administrative Code §§358.10 - 358.15. Sections 358.10 - 358.12 and 358.15 are adopted with changes to the proposed text as published in the April 17, 2026, issue of the *Texas Register* (51 TexReg 2502) and will be republished. Sections 385.13 and 358.14 are adopted without changes to the proposed text and will not be republished.

BACKGROUND AND SUMMARY OF THE FACTUAL BASIS FOR THE ADOPTED AMENDMENT.

This rulemaking implements House Bill (HB) 29 from the 89th Texas Legislative Session, codified as Texas Water Code §16.0122. HB 29 created certain new responsibilities for municipally owned utilities that provide potable water through more than 150,000 service connections. This rulemaking covers the portions of Texas Water Code §16.0122 that deal with the TWDB's responsibilities.

In a separate filing with the *Texas Register*, the TWDB adopts a repeal within 31 TAC Chapter 358. With this rulemaking, the TWDB will reorganize that chapter and add a new subchapter. The existing text of §358.6, with some amendments, will remain in the new sections adopted in this rulemaking.

SECTION BY SECTION DISCUSSION OF ADOPTED AMENDMENTS.

Subchapter C. Water Loss Audits.

This adoption adds a new subchapter within chapter 358 to better organize the chapter.

Section 358.10 Definitions.

The TWDB adopts the definitions for the subchapter for ease of reading. All but one of these definitions were previously included in old §358.6. The definitions are reordered alphabetically. This adoption adds one new defined term in subsection (6) for "Large Municipally Owned Utilities." As some requirements from HB 29

only apply to certain utilities, the TWDB adopts a defined term for "large municipally owned utilities" to cover the applicability of those statutory requirements. This term will be defined as "A municipally owned utility, as defined by Texas Water Code §13.002, that provides potable water through more than 150,000 service connections," which directly implements the language of HB 29.

Pursuant to public comment, the TWDB also amends the definition of "Executive Administrator" to include "or a designated representative," which is consistent with TWDB's other rules. Pursuant to public comment, the TWDB amends the definition of "validation" with non-substantive changes for clarity purposes.

Section 358.11. Water Loss Audits.

This adoption moves previously numbered §358.6 to new §358.11. This adoption moves the defined terms to a new definitions section. The TWDB moves the provisions related to water loss audit validations, water loss thresholds, and technical assistance to separate sections within the same chapter.

This adoption updates the language within new §358.11 to correct cross references for the provisions that the TWDB moved. Pursuant to public comment, the rulemaking removes a duplicate reference to "water loss audits" for clarity purposes. This rulemaking does not include any other changes to the text of previously numbered §358.6.

Section 358.12. Water Loss Audit Validations.

This adoption moves previously numbered §358.6(b)(5) to its own new section. The TWDB will extend the deadline for water loss audit validations from 3 months to 180 days to better align with HB 29. This adoption adds the requirements from HB 29 to this rule text. This adoption also updates internal cross references and adds clarifying language. New subsection (b) within this new section reflects the new requirements from HB 29. Pursuant to public comment, the TWDB changes "will be required" to "must" throughout this section for clarity purposes. The rulemaking also makes other non-substantive changes for clarity purposes, pursuant to public comment. The TWDB received a public comment requesting a change to the reference to annual water loss audits. To avoid confusion, the adoption uses the statutory language from HB 29 to reference annual water loss audit requirements.

Section 358.13. Water Loss Thresholds.

This adoption moves previously numbered §358.6(e) and (f) to their own new section related to water loss thresholds. The only language changes are to change the reference to "total water loss" to reference "real or apparent water loss," which matches agency practice and to update internal cross-references based on renumbering.

Section 358.14. Water Loss Audit Technical Assistance.

This adoption moves previously numbered §358.6(g) and (h) to their own new section related to water loss technical assistance. This adoption does not include any changes to the language.

Section 358.15. Water Loss Mitigation Plan.

This adoption adds new §358.15 to include a new requirement for water loss mitigation plans from HB 29. The TWDB received a public comment requesting a change to the reference to annual water loss audits. To avoid confusion, the adoption uses the statutory language from HB 29 to reference annual water loss audit requirements.

REGULATORY IMPACT ANALYSIS DETERMINATION (Texas Government Code §2001.0225)

The TWDB reviewed the rulemaking in light of the regulatory analysis requirements of Texas Government Code §2001.0225 and determined that the rulemaking is not subject to Texas Government Code §2001.0225, because it does not meet the definition of a "major environmental rule" as defined in the Administrative Procedure Act. A "major environmental rule" is defined as a rule with the specific intent to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy or a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. The intent of the rulemaking is to clarify requirements for certain municipally owned utilities and encourage better data and analysis related to water loss.

Even if the rule were a major environmental rule, Texas Government Code §2001.0225 still would not apply to this rulemaking because Texas Government Code §2001.0225 only applies to a major environmental rule, the result of which is to: (1) exceed a standard set by federal law, unless the rule is specifically required by state law; (2) exceed an express requirement of state law, unless the rule is specifically required by federal law; (3) exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or (4) adopt a rule solely under the general powers of the agency instead of under a specific state law. This rulemaking does not meet any of these four applicability criteria because it: (1) does not exceed any federal law; (2) does not exceed an express requirement of state law; (3) does not exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; and (4) is not adopted solely under the general powers of the agency, but rather Texas Water Code §16.0121. Therefore, this rule does not fall under any of the applicability criteria in Texas Government Code §2001.0225.

TAKINGS IMPACT ASSESSMENT (Texas Government Code §2007.043)

The TWDB evaluated this rule and performed an analysis of whether it constitutes a taking under Texas Government Code, Chapter 2007. The specific purpose of this rule is to clarify requirements for certain municipally owned utilities and encourage better data and analysis related to water loss. The rule would substantially advance this stated purpose by reorganizing the subchapter in a clearer way and delineating responsibilities and duties for different utilities.

The TWDB's analysis indicates that Texas Government Code, Chapter 2007 does not apply to this rule because this is an action that is reasonably taken to fulfill an obligation mandated by state law, which is exempt under Texas Government Code §2007.003(b)(4). The TWDB is the agency that receives water loss audits, receives and conducts certain water loss audit validations, establishes water loss thresholds, and receives and reviews water conservation plans.

Nevertheless, the TWDB further evaluated this rule and performed an assessment of whether it constitutes a taking under Texas Government Code Chapter 2007. Promulgation and enforcement of this rule would be neither a statutory nor a constitutional taking of private real property. Specifically, the subject rule does not affect a landowner's rights in private real property

because this rulemaking does not burden, restrict, or limit the owner's right to property and reduce its value by 25% or more beyond that which would otherwise exist in the absence of the rule. In other words, this rule implements legislation that requires certain municipally owned water utilities to conduct water loss audit validations and develop water loss mitigation plans. Therefore, the rule does not constitute a taking under Texas Government Code, Chapter 2007.

PUBLIC COMMENTS (Texas Government Code §2001.033(a)(1))

The TWDB received three public comments, which resulted in some modifications to the proposed language. The remaining suggested changes were not made to avoid repeating statue in administrative rules, stay in bounds with statute, and keep terms broad. The public comment period for this rulemaking ended on May 18, 2026.

The Greater Edwards Aquifer Alliance is supportive of the rulemaking and suggested no changes. The Sierra Club Lone Star Chapter is also supportive of the rules and appreciates the transparency of the TWDB by publishing the water loss data in the water loss dashboard. The Sierra Club would like the five requirements for mitigation plans to be specifically listed in rules, and for future mitigation plans to clearly differentiate between real and apparent water loss efforts. The National Wildlife Federation provided several specific text changes to the rules for clarity.

The following is a compilation of the comments received including a response to each.

*Section 358.10*

Comment:

The National Wildlife Federation commented to include "executive administrator's staff" in the definition of Executive Administrator.

Response:

The TWDB added "designated representative" to the definition and aligned the language with that used in other TWDB's administrative rules.

Comment:

The National Wildlife Federation commented to add "among other potential actions" to the mitigation definition to clarify that their other type of mitigation activities from the three listed.

Response:

The TWDB acknowledges the comment. No changes were made to the rules in response because "may include" suggests the list is not exhaustive.

Comment:

The National Wildlife Federation commented to modify the definition of validation to indicate "applying appropriate methodology."

Response:

The TWDB made the modification to the rules.

*Section 358.11*

Comment:

The National Wildlife Federation commented to reference "paragraph (1) or (2)" to determine the schedule of when to undertake and file an audit and delete the use of "water loss audit" twice.

Response:

The TWDB acknowledges the comment and will delete the duplication of water loss audit but will specify who needs to file an audit instead of referencing it.

Comment:

The National Wildlife Federation commented on specifying a timeframe for renewing their water loss audit training to ensure familiarity with audit methodologies.

Response:

The TWDB acknowledges the comment. No changes were made to the rules in response because the agency does not have the authority to impose more than statue.

Comment:

The National Wildlife Federation commented on indicating the missing or incomplete audit to avoid a utility skipping multiple cycles of audits without any impact on eligibility for financial assistance.

Response:

The TWDB acknowledges the comment. No changes were made to the rules in response because the current rules allow the ability to require the delinquent and/or future audit depending on where we are in the reporting cycle.

*Section 358.12*

Comment:

The National Wildlife Federation commented on changing certain words or phrases in the water loss audit validation requirements to make the language more straightforward.

Response:

The TWDB made those changes to the rules.

Comment:

The National Wildlife Federation commented on deleting a qualifying statement in the large municipally owned utilities requirements to make the language more straightforward.

Response:

The TWDB made those changes to the rules.

*Section 358.15*

Comment:

The Sierra Club Lone Star Chapter commented that §358.15. Water Loss Mitigation Plans, "could be expanded to list the requirements of the Water Loss Mitigation Plan found in HB 29 itself, which would avoid any confusion."

Response:

The TWDB acknowledges the comment. No changes were made to the rules in response, to avoid repeating plan requirements in administrative rules that already exist in statue.

STATUTORY AUTHORITY (Texas Government Code §2001.033(a)(2))

The amendment is adopted under the authority of Texas Water Code §6.101, which provides the TWDB with the authority to adopt rules necessary to carry out the powers and duties in the Water Code and other laws of the State, and also under the authority of Water Code §16.0121 and §16.0122.

This rulemaking affects Texas Water Code, Chapter 16.

*§358.10. Definitions.*

Unless otherwise indicated, in this subchapter the following terms shall have the meanings assigned.

(1) Allowed apparent loss--A unique number for allowable apparent loss calculated for each utility.

(2) Annual real loss--A unique number calculated for each utility based on the utility's real loss on an annualized basis.

(3) Apparent loss--Unauthorized consumption, meter inaccuracy, billing adjustments, and waivers.

(4) Average system operating pressure--System operating pressure in pounds per square inch calculated using a weighted average approach as identified in the American Water Works Association M36 Manual.

(5) Executive Administrator--The executive administrator of the board or a designated representative.

(6) Large Municipally Owned Utility--A municipally owned utility, as defined by Texas Water Code §13.002, that provides potable water through more than 150,000 service connections.

(7) Mitigation--An action or actions taken by a retail public utility to reduce the amount of total water loss in a system. Mitigation may include a detailed water loss assessment, pipe or meter replacement, or addition or improvement of monitoring devices to detect water loss.

(8) Real loss--Loss from main breaks and leaks, storage tank overflows, customer service line breaks, and line leaks.

(9) Retail public utility or utility--A retail public utility as defined by Texas Water Code §13.002.

(10) Service connection density--The number of a retail public utility's connections on a per mile basis.

(11) Total water loss--The sum of a utility's real loss and apparent loss.

(12) Validation--The process of examining water loss audit inputs to identify and correct inaccuracies in water loss audit data and of applying appropriate methodology to evaluate and communicate the uncertainty inherent in water loss audit data.

*§358.11. Water Loss Audits.*

(a) A retail public utility that provides potable water shall perform and file with the executive administrator a water loss audit computing the utility's system water loss during the preceding calendar year, unless a different 12-month period is allowed by the executive administrator. The water loss audit may be submitted electronically.

(1) Audit required annually. The utility must file the water loss audit with the executive administrator annually by May 1st if the utility:

(A) has more than 3,300 connections; or

(B) is receiving financial assistance from the board, regardless of the number of connections. A retail public utility is receiving financial assistance from the board if it has an outstanding loan, loan forgiveness agreement, or grant agreement from the board.

(2) Audit required every five years. The utility must file the water loss audit with the executive administrator by May 1, 2016, and every five years thereafter by May 1st if the utility has 3,300 or fewer connections and is not receiving financial assistance from the board.

(3) The water loss audit must be performed in accordance with methodologies developed by the executive administrator based on the population served by the utility and taking into consideration the financial feasibility of performing the water loss audit, population density in the service area, the retail public utility's source of water supply, the mean income of the service population, and any other factors determined by the executive administrator. The executive administrator will provide the necessary forms and methodologies to the retail public utility.

(4) A water loss audit must be performed by a person who has completed water loss audit training developed by the executive administrator. The executive administrator will make such training available without charge on the agency website and may also provide such training in person or by video.

(b) The executive administrator shall determine if the water loss audit is administratively complete. A water loss audit is administratively complete if all required responses are provided, the audit is completed by a person who has been trained to conduct water loss auditing as described in subsection (a)(4) of this section, and the audit has been validated as described in §358.12 of this subchapter (relating to Water Loss Audit Validations). In the event the executive administrator determines that a retail public utility's water loss audit is incomplete, the executive administrator shall notify the utility.

(c) A retail public utility that provides potable water that fails to submit a water loss audit or that fails to correct a water loss audit that is not administratively complete within the timeframe provided by the executive administrator is ineligible for financial assistance for water supply projects under Texas Water Code, Chapter 15, Subchapters C, D, E, F, G, H, J, O, Q, and R; Chapter 16, Subchapters E and F; and Chapter 17, Subchapters D, I, K, and L. The retail public utility will remain ineligible for financial assistance until a complete water loss audit has been filed with and accepted by the executive administrator.

(d) The executive administrator shall publicly post on the board's official website a summary of:

(1) the information included in the water audits required by Texas Water Code §16.0121(b) and §16.0121(b-1) according to category of retail public utility and according to regional water planning area;

(2) the measures taken by retail public utilities to reduce water loss; and

(3) a list of those retail public utilities receiving technical assistance as established under §358.14 of this subchapter (relating to Water Loss Technical Assistance), including details related to use of the board's financial assistance to mitigate a retail public utility's total water loss.

*§358.12. Water Loss Audit Validations.*

(a) A retail public utility that provides potable water required to submit a water loss audit annually as described in §358.11(a)(1)(B) of this subchapter (relating to Water Loss Audits) or that is applying for financial assistance must have its most current water loss audit validated within 180 days of submittal or prior to consideration of a request for financial assistance from the board, whichever is earlier, in accordance with TWDB's validation guidance. The executive administrator will validate the submitted water loss audit in consultation with the retail public utility. Alternatively, the utility may elect to have the

water loss audit validated by a person other than the executive administrator. Should a water loss audit be validated by a person other than the executive administrator, validation must follow TWDB's validation guidelines and be performed by a person other than the person submitting the water loss audit, who has completed water loss audit validation training and is certified to conduct such validation.

(b) A large municipally owned utility that has filed an annual water audit under Texas Water Code §16.0121 must have its most current water loss audit for the current reporting year validated within 180 days of submittal. The validation must be conducted by someone other than the executive administrator. Validation must follow TWDB's validation guidelines and be performed by a person other than the person submitting the water loss audit, who has completed water loss audit validation training and is certified to conduct such validation. A validation conducted under this subsection can be used to satisfy the requirements of subsection (a) of this section if done according to the deadlines in subsection (a) of this section.

*§358.15. Water Loss Mitigation Plans.*

A large municipally owned utility that has filed an annual water audit under Texas Water Code §16.0121 must develop and submit to the board a water loss mitigation plan, that meets the requirements of Texas Water Code §16.0122, not later than the first anniversary of the date the audit was filed.

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 July 24, 2026.

TRD-202603134
Ashley Harden
General Counsel
Texas Water Development Board
Effective date: August 13, 2026
Proposal publication date: April 17, 2026
For further information, please call: (512) 475-1673

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# CHAPTER 363. FINANCIAL ASSISTANCE PROGRAMS

## SUBCHAPTER A. GENERAL PROVISIONS

## DIVISION 2. GENERAL APPLICATION PROCEDURES

### 31 TAC §363.12, §363.15

The Texas Water Development Board (TWDB) adopts amendments to 31 Texas Administrative Code §363.12 and §363.15. The amendments are adopted without changes as published in the April 17, 2026, issue of the *Texas Register* (51 TexReg 2506) and will not be republished.

BACKGROUND AND SUMMARY OF THE FACTUAL BASIS FOR THE ADOPTED AMENDMENT.

This rulemaking implements House Bill (HB) 29 from the 89th Texas Legislative Session, codified as Texas Water Code §16.0122. HB 29 created certain new responsibilities for municipally owned utilities that provide potable water through more than 150,000 service connections, including changes to those entities' water conservation plans. This rulemaking covers the portions of Texas Water Code §16.0122 that deal with the TWDB's responsibilities.

SECTION BY SECTION DISCUSSION OF ADOPTED AMENDMENTS.

Section 363.12. General, Legal, and Fiscal Information.

The TWDB adopts renumbering of certain sections within Chapter 358 of this Title in a separate filing within this issue of the *Texas Register*. The TWDB will amend this section to update a cross-reference that is renumbered in that separate filing.

Section 363.15. Required Water Conservation Plan.

The TWDB adopts added language to §363.15 to implement HB 29. HB 29 requires large municipally owned utilities to develop water loss mitigation plans and incorporate those plans into their water conservation plans. Those utilities must also incorporate their progress in implementing that water loss mitigation plan in their annual reports. These new requirements included in Texas Water Code §16.0122 by HB 29 are included in the TWDB's rule on water conservation plans.

REGULATORY IMPACT ANALYSIS DETERMINATION (Texas Government Code §2001.0225)

The TWDB reviewed the rulemaking in light of the regulatory analysis requirements of Texas Government Code §2001.0225 and determined that the rulemaking is not subject to Texas Government Code §2001.0225, because it does not meet the definition of a "major environmental rule" as defined in the Administrative Procedure Act. A "major environmental rule" is defined as a rule with the specific intent to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy or a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. The intent of the rulemaking is to clarify requirements for certain municipally owned utilities and encourage better data and analysis related to water loss and water conservation plans.

Even if the rule were a major environmental rule, Texas Government Code §2001.0225 still would not apply to this rulemaking because Texas Government Code §2001.0225 only applies to a major environmental rule, the result of which is to: (1) exceed a standard set by federal law, unless the rule is specifically required by state law; (2) exceed an express requirement of state law, unless the rule is specifically required by federal law; (3) exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or (4) adopt a rule solely under the general powers of the agency instead of under a specific state law. This rulemaking does not meet any of these four applicability criteria because it: (1) does not exceed any federal law; (2) does not exceed an express requirement of state law; (3) does not exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; and (4) is not adopted solely under the general powers of the agency, but rather Texas Water Code §16.0121. Therefore, this rule does not fall under any of the applicability criteria in Texas Government Code §2001.0225.

TAKINGS IMPACT ASSESSMENT (Texas Government Code §2007.043)

The TWDB evaluated this rule and performed an analysis of whether it constitutes a taking under Texas Government Code,

Chapter 2007. The specific purpose of this rule is to clarify requirements for certain municipally owned utilities and encourage better data and analysis related to water loss and water conservation plans. The rule would substantially advance this stated purpose by delineating responsibilities and duties for certain utilities to clarify new requirements in statute.

The TWDB's analysis indicates that Texas Government Code, Chapter 2007 does not apply to this rule because this is an action that is reasonably taken to fulfill an obligation mandated by state law, which is exempt under Texas Government Code §2007.003(b)(4). The TWDB is the agency that reviews water conservation plans.

Nevertheless, the TWDB further evaluated this rule and performed an assessment of whether it constitutes a taking under Texas Government Code Chapter 2007. Promulgation and enforcement of this rule would be neither a statutory nor a constitutional taking of private real property. Specifically, the subject rule does not affect a landowner's rights in private real property because this rulemaking does not burden, restrict, or limit the owner's right to property and reduce its value by 25% or more beyond that which would otherwise exist in the absence of the rule. In other words, this rule implements legislation that requires certain municipally owned water utilities to develop water loss mitigation plans and incorporate those into their water conservation plans and report progress in implementing those water loss mitigation plans in their annual reports. Therefore, the rule does not constitute a taking under Texas Government Code, Chapter 2007.

PUBLIC COMMENTS (Texas Government Code §2001.033(a)(1))

The comment period ended on May 18, 2026. No comments were received on this chapter. Comments were received on the associated proposed amendments to Chapter 358 and will be addressed in that rulemaking filed elsewhere in this issue of the *Texas Register*.

STATUTORY AUTHORITY (Texas Government Code §2001.033(a)(2))

The amendments are adopted under the authority of Texas Water Code §6.101, which provides the TWDB with the authority to adopt rules necessary to carry out the powers and duties in the Water Code and other laws of the State, and also under the authority of Texas Water Code §16.402 and §16.4021.

This rulemaking affects Water Code, Chapter 16.

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 July 24, 2026.

TRD-202603135
Ashley Harden
General Counsel
Texas Water Development Board
Effective date: August 13, 2026
Proposal publication date: April 17, 2026
For further information, please call: (512) 475-1673

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# TITLE 34. PUBLIC FINANCE

## PART 3. TEACHER RETIREMENT SYSTEM OF TEXAS

### CHAPTER 41. HEALTH CARE AND INSURANCE PROGRAMS

### SUBCHAPTER A. RETIREE HEALTH CARE BENEFITS (TRS-CARE)

**34 TAC §41.17**

The board of trustees of the Teacher Retirement System of Texas (TRS) adopts amended §41.17 relating to the Limited-Time Enrollment Opportunity for Medicare-eligible Retirees, of Subchapter A, Chapter 41, Title 34, Part 3, of the Texas Administrative Code, without any changes to the proposed text as originally published in the May 29, 2026, issue of the *Texas Register* (51 TexReg 3690). The rule will not be republished.

REASONED JUSTIFICATION

TRS adopts the amendments to §41.17 to open another Limited-Time Enrollment Opportunity for Medicare-eligible retirees and their eligible dependents, surviving spouses and surviving dependent children to return the TRS-Care Medicare Advantage (TRS-Care MA) plan to take advantage of the plan's reduced premiums for the 2027 plan year.

In 2024, TRS created §41.17 after receiving direction from legislative leadership to use the growth in the TRS-Care fund to reduce premiums and allow for a limited-time enrollment opportunity for eligible TRS-Care Medicare Advantage (TRS-Care MA) participants. Rule 41.17 established the enrollment period, eligibility requirements, and coverage effective dates. The enrollment opportunity ran from Oct. 1, 2024, through March 31, 2026.

As the TRS-Care trust fund continues to experience significant growth, TRS is able to maintain low premiums and amends §41.17 to offer another limited-time enrollment opportunity that will begin on Oct. 1, 2026, and end on March 31, 2028. The amendments also make a nonsubstantive change to correct a typographical spacing error in the existing rule language.

COMMENTS

No comments on the proposed amendments were received.

STATUTORY AUTHORITY

Amended §41.17 is adopted under the authority of Chapter 1575 of the Insurance Code, which establishes the Texas Public School Retired Employees Group Benefits Act (TRS-CARE), §1575.052, which allows the trustee to adopt rules, plans, procedures, and orders reasonably necessary to implement Chapter 1575; Chapter 825, Government Code, which governs the administration of TRS, and §825.102 of the Government Code, which authorizes the board of trustees to adopt rules for the transaction of its business.

CROSS-REFERENCE TO STATUTE

Amended §41.17 implements Insurance Code §1575.1582(b), concerning Eligibility for Group Health Benefit Plans.

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 July 23, 2026.

TRD-202603100
Don Green
Chief Financial Officer
Teacher Retirement System of Texas
Effective date: August 12, 2026
Proposal publication date: May 29, 2026
For further information, please call: (512) 542-3528

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## SUBCHAPTER C. TEXAS SCHOOL EMPLOYEES GROUP HEALTH (TRS-ACTIVECARE)

### 34 TAC §41.38

The Board of Trustees of the Teacher Retirement System of Texas (TRS) adopts amended §41.38 relating to Termination of Coverage, of Subchapter C, Chapter 41, Title 34, Part 3, of the Texas Administrative Code, without any changes to the proposed text as originally published in the May 29, 2026, issue of the *Texas Register* (51 TexReg 3692). The rule will not be republished.

REASONED JUSTIFICATION

TRS adopts amendments to §41.38 to delete §41.38(a)(7) to eliminate participants' ability to voluntarily terminate their TRS-ActiveCare enrollment in the middle of the plan year. As trustee of the program, TRS adopts this amendment to protect the fiscal health and stability of the trust fund and, in turn, the interests of all plan participants due to the following factors.

First, allowing a participant to leave TRS-ActiveCare mid-year is inconsistent with industry standards. Enrollees generally must remain in a health plan through the end of the plan year unless a qualifying mid-year life event under HIPAA permits a change, such as termination of employment, reduced work hours, death, divorce, marriage, or the birth or adoption of a child.

Second, allowing TRS-ActiveCare participants to drop coverage during the plan year undermines rate setting and premium collection. TRS sets premiums under the expectation that enrollment will remain consistent during the plan year for which the premium is set. Furthermore, participants who leave after receiving high-cost services stop contributing to the risk pool, increasing premium pressure on those who remain. Likewise, healthier participants who drop coverage for financial reasons shift costs to higher-cost participants and contribute to premium increases in future plan years.

Finally, allowing participants to leave the TRS-ActiveCare program in the middle of the plan year increases the administrative burden of managing the program, driving up administrative costs.

Therefore, TRS adopts the proposed amended §41.38 to remove §41.38(a)(7) from §41.38 and renumber the rest of the rule accordingly.

COMMENTS

No comments on the proposed amended rule were received.

STATUTORY AUTHORITY

Amended §41.38 is adopted under the authority of Chapter 1579 of the Insurance Code, which establishes the Texas School Employees Group Health Act (TRS-ACTIVECARE), §1579.052, which allows the trustee to adopt rules, plans, procedures, and orders reasonably necessary to implement Chapter 1579; Chapter 825, Government Code, which governs the administration of TRS, and §825.102 of the Government Code, which authorizes the board of trustees to adopt rules for the transaction of its business.

CROSS-REFERENCE TO STATUTE

Amended §41.38 implements Insurance Code §1579.052, concerning the Authority to Adopt Rules and Procedures; Other Authority, which authorizes the trustee to adopt rules, plans, procedures, and orders reasonably necessary to implement Chapter 1579, including periods of enrollment and coverage selection and outlines the procedures for enrolling and exercising options under the group program.

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 July 23, 2026.

TRD-202603128
Don Green
Chief Financial Officer
Teacher Retirement System of Texas
Effective date: August 12, 2026
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For further information, please call: (512) 542-3528

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# TITLE 37. PUBLIC SAFETY AND CORRECTIONS

## PART 13. TEXAS COMMISSION ON FIRE PROTECTION

## CHAPTER 427. TRAINING FACILITY CERTIFICATION

The Texas Commission on Fire Protection (Commission) adopts amendments to 37 TAC §427.11 and §427.211, concerning Reference Material; §427.301, concerning General Provisions for Training Programs--On-Site and Distance Training Providers; and §427.403, concerning Financial Standards, without changes to the proposed text as published in the May 1, 2026, issue of the *Texas Register* (51 TexReg 2882). The rules will not be republished.

JUSTIFICATION FOR RULE ACTION

The Commission adopts these amendments to update requirements for certified training facilities and distance training providers under Chapter 427. The amendments to §427.11 and §427.211 clarify that a facility's required reference library may be maintained in physical or digital format and update the description of required reference materials to align with the applicable curriculum. The amendment to §427.301 adds a new subsection requiring training providers to report all injuries and burn injuries that occur during training through the Commission's injury report system. The amendment to §427.403 removes an outdated renewal requirement under which entities certified under Subchapter D were required to submit a balance sheet with a sworn statement upon application for renewal.

HOW THE RULE WILL FUNCTION

As adopted, §427.11 and §427.211 permit a training facility's or distance training provider's reference library to be maintained in physical or digital form and require the library to contain each of the required and recommended references identified in the applicable curriculum. Section 427.301 requires on-site and distance training providers to report all injuries and burn injuries occurring during training via the TCFP injury report system. Section 427.403 no longer requires entities certified under Subchapter D to submit a balance sheet with a sworn statement as part of a renewal application.

SUMMARY OF COMMENTS

The Commission did not receive any comments regarding adoption of these amendments.

## SUBCHAPTER A. ON-SITE CERTIFIED TRAINING PROVIDER

### 37 TAC §427.11

STATUTORY AUTHORITY

The amendment to §427.11 is adopted under Texas Government Code §§419.008 and 419.032, which authorize the Commission to adopt rules for the administration of its statutory responsibilities.

No other statutes, articles, or codes are affected by this 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 July 23, 2026.

TRD-202603133
Mike Wisko
Agency Chief
Texas Commission on Fire Protection
Effective date: August 12, 2026
Proposal publication date: May 1, 2026
For further information, please call: (512) 936-3812

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## SUBCHAPTER B. DISTANCE TRAINING PROVIDER

### 37 TAC §427.211

STATUTORY AUTHORITY

The amendment to §427.211 is adopted under Texas Government Code §§419.008 and 419.032, which authorize the Commission to adopt rules for the administration of its statutory responsibilities.

No other statutes, articles, or codes are affected by this 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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TRD-202603131
Mike Wisko
Agency Chief
Texas Commission on Fire Protection
Effective date: August 12, 2026
Proposal publication date: May 1, 2026
For further information, please call: (512) 936-3812

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## SUBCHAPTER C. TRAINING PROGRAMS FOR ON-SITE AND DISTANCE TRAINING PROVIDERS

### 37 TAC §427.301

STATUTORY AUTHORITY

The amendment to §427.301 is adopted under Texas Government Code §§419.008 and 419.032, which authorize the Commission to adopt rules for the administration of its statutory responsibilities.

No other statutes, articles, or codes are affected by this 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 July 23, 2026.

TRD-202603132
Mike Wisko
Agency Chief
Texas Commission on Fire Protection
Effective date: August 12, 2026
Proposal publication date: May 1, 2026
For further information, please call: (512) 936-3812

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## SUBCHAPTER D. CERTIFIED TRAINING FACILITIES

### 37 TAC §427.403

STATUTORY AUTHORITY

The amendment to §427.403 is adopted under Texas Government Code §§419.008 and 419.032, which authorize the Commission to adopt rules for the administration of its statutory responsibilities.

No other statutes, articles, or codes are affected by this 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 July 23, 2026.

TRD-202603130
Mike Wisko
Agency Chief
Texas Commission on Fire Protection
Effective date: August 12, 2026
Proposal publication date: May 1, 2026
For further information, please call: (512) 936-3812

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## CHAPTER 435. FIRE FIGHTER SAFETY

The Texas Commission on Fire Protection (Commission) adopts amendments to 37 TAC §435.23, concerning Fire Protection Personnel Injuries; §435.25, concerning Courage to be Safe So Everyone Goes Home Program; §435.29, concerning Federal Highway Administration Traffic Incident Management Program; and §435.31, concerning Firefighter Cancer Support Network Cancer Awareness Training Program, without changes to the proposed text as published in the May 1, 2026, issue of the *Texas Register* (51 TexReg 2884). The rules will not be republished.

JUSTIFICATION FOR RULE ACTION

The Commission adopts these amendments to clarify and strengthen firefighter safety requirements administered by the Commission. The amendment to §435.23 updates the definition of investigable injuries to better reflect current injury reporting needs, including burns sustained from emergency operations or training. The amendments to §§435.25, 435.29, and 435.31 convert existing one-time training requirements into recurring five-year renewal requirements for the Courage to be Safe So Everyone Goes Home, Federal Highway Administration Traffic Incident Management, and Firefighter Cancer Support Network Cancer Awareness programs, ensuring that fire protection personnel remain current on critical safety topics throughout their careers. The amendment to §435.31 also removes outdated date references that have passed.

HOW THE RULE WILL FUNCTION

As adopted, §435.23 expands the categories of investigable fire protection personnel injuries to include burns sustained from emergency operations or training and the top three injuries identified from the annual injury report. As adopted, §§435.25, 435.29, and 435.31 require fire protection personnel to complete the applicable safety training within one year of appointment and to renew that training at least every five years, and regulated entities will have three years from adoption to come into compliance. Completion continues to be reported through the Commission's web-based reporting system, and failure to complete the training by the required deadline remains a violation of the continuing education rules in Chapter 441 of this title (relating to Continuing Education).

SUMMARY OF COMMENTS

The Commission did not receive any comments regarding adoption of these amendments.

### 37 TAC §435.23

STATUTORY AUTHORITY

The amendment to §435.23 is adopted under Texas Government Code §§419.008 and 419.032, which authorize the Commission to adopt rules for the administration of its statutory responsibilities.

No other statutes, articles, or codes are affected by this 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 July 27, 2026.

TRD-202603169
Mike Wisko
Agency Chief
Texas Commission on Fire Protection
Effective date: August 16, 2026
Proposal publication date: May 1, 2026
For further information, please call: (512) 936-3812

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### 37 TAC §435.25

STATUTORY AUTHORITY

The amendment to §435.25 is adopted under Texas Government Code §§419.008 and 419.032, which authorize the Commission to adopt rules for the administration of its statutory responsibilities.

No other statutes, articles, or codes are affected by this 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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Mike Wisko
Agency Chief
Texas Commission on Fire Protection
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For further information, please call: (512) 936-3812

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### 37 TAC §435.29

STATUTORY AUTHORITY

The amendment to §435.29 is adopted under Texas Government Code §§419.008 and 419.032, which authorize the Commission to adopt rules for the administration of its statutory responsibilities.

No other statutes, articles, or codes are affected by this 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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Mike Wisko
Agency Chief
Texas Commission on Fire Protection
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For further information, please call: (512) 936-3812

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### 37 TAC §435.31

STATUTORY AUTHORITY

The amendment to §435.31 is adopted under Texas Government Code §§419.008 and 419.032, which authorize the Commission to adopt rules for the administration of its statutory responsibilities.

No other statutes, articles, or codes are affected by this 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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Mike Wisko
Agency Chief
Texas Commission on Fire Protection
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Proposal publication date: May 1, 2026
For further information, please call: (512) 936-3812

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## CHAPTER 437. FEES

### 37 TAC §437.7

The Texas Commission on Fire Protection (Commission) adopts an amendment to 37 TAC §437.7, concerning Standards Manual and Certification Curriculum Manual Fees, without changes to the proposed text as published in the May 22, 2026, issue of the *Texas Register* (51 TexReg 3542). The rule will not be republished.

JUSTIFICATION FOR RULE ACTION

The Commission adopts this amendment to remove outdated language referencing Thomson West as a source for printed copies of the Commission's standards manuals and to direct individuals to obtain official printed copies from authorized legal publishers or by downloading the publicly available digital versions from the Texas Secretary of State website.

HOW THE RULE WILL FUNCTION

As adopted, §437.7 continues to provide that current versions of the Standards Manual for Fire Protection Personnel and Certification Curriculum Manual are available on the commission's website. The amendment updates subsection (b) to remove the outdated Thomson West contact information and to direct individuals seeking printed copies to authorized legal publishers or to the publicly available digital versions on the Texas Secretary of State website.

SUMMARY OF COMMENTS

The Commission did not receive any comments regarding adoption of the amendment.

STATUTORY AUTHORITY

The amendment is adopted under Texas Government Code §419.008, which authorizes the Commission to adopt rules for the administration of its powers and duties.

No other statutes, articles, or codes are affected by this 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 July 27, 2026.

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Mike Wisko
Agency Chief
Texas Commission on Fire Protection
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Proposal publication date: May 22, 2026
For further information, please call: (512) 936-3812

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# TITLE 40. SOCIAL SERVICES AND ASSISTANCE

## PART 20. TEXAS WORKFORCE COMMISSION

## CHAPTER 804. JOBS AND EDUCATION FOR TEXANS (JET) GRANT PROGRAM

The Texas Workforce Commission (TWC) adopts amendments to the following sections of Chapter 804, relating to the Jobs and Education for Texans (JET) Grant Program:

Subchapter A. Definitions, §804.1

Subchapter B. Advisory Board Composition, Meeting Guidelines, §804.12 and §804.13

Subchapter C. Grant Program, §804.21 and §804.24

Subchapter D. Grants to Educational Institutions for Career and Technical Education Programs, §804.41

TWC adopts the following new section to Chapter 804, relating to the Jobs and Education for Texans (JET) Grant Program:

Subchapter B. Advisory Board Composition, Meeting Guidelines, §804.14

Amended §§804.1, 804.12, 804.13, 804.21, 804.24, and 804.41, and new 804.14 are adopted without changes to the proposal, as published in the May 1, 2026, issue of the *Texas Register* (51 TexReg 2889), and, therefore, the adopted rule text will not be published.

PART I. PURPOSE, BACKGROUND, AND AUTHORITY

The purpose of the Chapter 804 rule change is to implement Senate Bill 1728, enacted by the 89th Texas Legislature, Regular Session, 2025, by including the Texas Juvenile Justice Department, juvenile boards, and juvenile probation departments as eligible applicants for the Jobs and Education for Texans grant program.

The rule change also adds a new section to reference a concurrent proposed new rule in 40 TAC Chapter 800, Subchapter E, establishing an abolishment date for the JET Advisory Council.

PART II. EXPLANATION OF INDIVIDUAL PROVISIONS

(Note: Minor editorial changes are made that do not change the meaning of the rules and, therefore, are not discussed in the Explanation of Individual Provisions.)

SUBCHAPTER A. DEFINITIONS

TWC adopts the following amendments to Subchapter A:

§804.1. Definitions

Section 804.1 is amended to add definitions for the Texas Juvenile Justice Department, juvenile boards, and juvenile probation departments.

SUBCHAPTER B. ADVISORY BOARD COMPOSITION, MEETING GUIDELINES

TWC adopts the following amendments to Subchapter B:

The subchapter's title is changed to "Subchapter B. Advisory Board's General Provisions."

§804.12. Meetings Required

Section 804.12 is amended to add the Texas Juvenile Justice Department, juvenile boards, and juvenile probation departments as entities from which the advisory board may receive and review applications.

§804.13. General Advisory Board Responsibilities

Section 804.13 is amended to add the Texas Juvenile Justice Department, juvenile boards, and juvenile probation departments as entities that the advisory board shall provide advice to and recommend the manner in which they apply for JET grants.

§804.14. Duration of Advisory Board

New §804.14 is added to provide a reference to 40 TAC Chapter 800, Subchapter E, which establishes an abolishment date for the JET Advisory Board, as allowed under Texas Government Code, §2110.008.

SUBCHAPTER C. GRANT PROGRAM

TWC adopts the following amendments to Subchapter C:

§804.21. General Statement of Purpose

Section 804.21 is amended to add the Texas Juvenile Justice Department, juvenile boards, and juvenile probation departments as eligible entities to apply for JET grants.

§804.24. Reporting Requirements

Section 804.24 is amended to include the Texas Juvenile Justice Department, juvenile boards, and juvenile probation departments as entities that must comply with all reporting requirements should they receive a grant under Chapter 804.

SUBCHAPTER D. GRANTS TO EDUCATIONAL INSTITUTIONS FOR CAREER AND TECHNICAL EDUCATION PROGRAMS

TWC adopts the following amendments to Subchapter D:

§804.41. Grants for Career and Technical Education Programs

Section 804.41 is amended to include the Texas Juvenile Justice Department, juvenile boards, and juvenile probation departments as entities under Chapter 804, Subchapter D.

PART III. PUBLIC COMMENTS

The comment period ended on June 1, 2026. No comments were received.

## SUBCHAPTER A. DEFINITIONS

**40 TAC §804.1**

PART IV. STATUTORY AUTHORITY

The rule is adopted under the authority of:

--Texas Education Code, §134.008, which requires TWC to adopt rules for the administration of the JET grant program.

--Texas Labor Code, §301.0015(6) and §302.002(d), which provide TWC with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of TWC services and activities.

The adopted rule relates to Texas Education Code, Chapter 134.

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 July 27, 2026.

TRD-202603149
Les Trobman
General Counsel
Texas Workforce Commission
Effective date: August 16, 2026
Proposal publication date: May 1, 2026
For further information, please call: (737) 301-9662

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## SUBCHAPTER B. ADVISORY BOARD'S GENERAL PROVISIONS

**40 TAC §§804.12 - 804.14**

The rules are adopted under the authority of:

--Texas Education Code, §134.008, which requires TWC to adopt rules for the administration of the JET grant program.

--Texas Labor Code, §301.0015(6) and §302.002(d), which provide TWC with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of TWC services and activities.

The adopted rules relate to Texas Education Code, Chapter 134.

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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Les Trobman
General Counsel
Texas Workforce Commission
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For further information, please call: (737) 301-9662

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## SUBCHAPTER C. GRANT PROGRAM

**40 TAC §804.21, §804.24**

The rules are adopted under the authority of:

--Texas Education Code, §134.008, which requires TWC to adopt rules for the administration of the JET grant program.

--Texas Labor Code, §301.0015(6) and §302.002(d), which provide TWC with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of TWC services and activities.

The adopted rules relate to Texas Education Code, Chapter 134.

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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Les Trobman
General Counsel
Texas Workforce Commission
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For further information, please call: (737) 301-9662

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## SUBCHAPTER D. GRANTS TO EDUCATIONAL INSTITUTIONS FOR CAREER AND TECHNICAL EDUCATION PROGRAMS

### 40 TAC §804.41

The rule is adopted under the authority of:

--Texas Education Code, §134.008, which requires TWC to adopt rules for the administration of the JET grant program.

--Texas Labor Code, §301.0015(6) and §302.002(d), which provide TWC with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of TWC services and activities.

The adopted rule relates to Texas Education Code, Chapter 134.

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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Les Trobman
General Counsel
Texas Workforce Commission
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Proposal publication date: May 1, 2026
For further information, please call: (737) 301-9662

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## CHAPTER 812. RURAL WORKFORCE DEVELOPMENT GRANT PROGRAM

The Texas Workforce Commission (TWC) adopts new Chapter 812, relating to the Rural Workforce Development Grant Program, comprising the following subchapters:

Subchapter A. General Provisions, §§812.1 - 812.3

Subchapter B. Program Administration, §§812.11 - 812.15

New §§812.1 - 812.3 and 812.11 - 812.15 are adopted without changes to the proposal, as published in the March 20, 2026, issue of the *Texas Register* (51 TexReg 1802), and, therefore, the adopted rule text will not be published.

PART I. PURPOSE, BACKGROUND, AND AUTHORITY

The purpose of the new Chapter 812 is to establish the Rural Workforce Development Grant Program and set forth TWC's procedures for administering the new grant program.

Senate Bill 2448 (SB 2448), 89th Texas Legislature, Regular Session, 2025, amended Texas Labor Code, Chapter 302, by adding Subchapter J relating to the creation of the Rural Workforce Development Grant Program.

The Rural Workforce Development Grant Program allows TWC to award grants to one or more nonprofit organizations to provide technical assistance and support to institutions of higher education and school districts located in rural areas of the state in aligning and delivering workforce training and higher education programs to address skills gaps to meet urgent workforce demands of rural areas.

SB 2448 requires TWC, in consultation with the Texas Education Agency and the Texas Higher Education Coordinating Board, to establish and administer the program. SB 2448 also requires TWC to adopt rules necessary to administer the program and to periodically verify that grant money awarded to a nonprofit organization under the program is being used appropriately. In addition to any money appropriated for the program, TWC may solicit and accept gifts, grants, and donations from any public or private source for the program.

PART II. EXPLANATION OF INDIVIDUAL PROVISIONS

SUBCHAPTER A. GENERAL PROVISIONS

TWC adopts new Subchapter A, General Provisions, as follows:

§812.1. Purpose and Goal

New §812.1(a) sets forth the purpose of the Rural Workforce Development Grant Program.

New §812.1(b) sets forth the goals of the Rural Workforce Development Grant Program.

§812.2. Definitions

New §812.2 defines terms used in this chapter.

§812.3. Program Funding

New §812.3 allows TWC to solicit and accept funding for the Rural Workforce Development Grant Program in addition to any money appropriated.

SUBCHAPTER B. PROGRAM ADMINISTRATION

TWC adopts new Subchapter B, Program Administration as follows:

§812.11. Grant Eligibility

New §812.11 establishes the eligibility requirements for potential grant applicants.

§812.12. Grant Application

New §812.12 establishes the application requirements for eligible applicants.

§812.13. Grant Requirements

New §812.13 establishes the grant requirements for the Rural Workforce Development Grant Program.

§812.14. Review and Reporting Requirements

New §812.14 sets forth the requirements for rules and grant recipient award review.

§812.15. Annual Report

New §812.15 sets forth TWC's reporting requirements.

PART III. PUBLIC COMMENTS

The comment period ended on April 20, 2026.

TWC received a comment from The Scaffold Initiative.

COMMENT: The Scaffold Initiative, a national 501(c)(4) dedicated to expanding AI and digital workforce readiness for displaced workers, expressed its support for establishing the Rural Workforce Development Grant Program. To address unique rural workforce challenges, Scaffold Initiative recommends integration of AI and digital literacy into grant priorities for §812.1(b). According to the commenter, this is crucial because rural sectors like agriculture, health care, and energy are rapidly adopting AI-driven technologies, requiring workers to develop AI competency to operate augmented tools effectively. Without this, the organization says rural communities risk falling behind. They suggested TWC include a preference for proposals that incorporate AI and digital skills into workforce training. Additionally, to ensure accessibility for nationally operating nonprofits, the Initiative recommended flexibly interpreting §812.11 to allow applicants to demonstrate equivalent rural workforce development experience from comparable settings outside Texas, thereby broadening the pool of qualified organizations. The Initiative also offered to provide data on the positive impact of AI and digital skills in workforce programs.

RESPONSE: TWC appreciates the comment and appreciates the recommendation and offer to provide supporting data on program impact. TWC also appreciates the Scaffold Initiative's expertise and commitment to workforce development. No changes were made in response to this comment; however, these valuable suggestions will be considered as we move forward with implementation of the program.

## SUBCHAPTER A. GENERAL PROVISIONS

**40 TAC §§812.1 - 812.3**

PART IV. STATUTORY AUTHORITY

The new rules are adopted under the authority of:

--Texas Labor Code, §302.306(1), as added by SB 2448, 89th Texas Legislature, Regular Session, 2025, which requires TWC to adopt rules for the administration of the Rural Workforce Development Grant Program.

--Texas Labor Code, §301.0015(6) and §302.002(d), which provide TWC with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of TWC services and activities.

The adopted rules implement Title 4, Texas Labor Code, Chapter 302, Subchapter J.

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 July 27, 2026.

TRD-202603153
Les Trobman
General Counsel
Texas Workforce Commission
Effective date: August 16, 2026
Proposal publication date: March 20, 2026
For further information, please call: (737) 301-9662

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## SUBCHAPTER B. PROGRAM ADMINISTRATION

**40 TAC §§812.11 - 812.15**

The new rules are adopted under the authority of:

--Texas Labor Code, §302.306(1), as added by SB 2448, 89th Texas Legislature, Regular Session, 2025, which requires TWC to adopt rules for the administration of the Rural Workforce Development Grant Program.

--Texas Labor Code, §301.0015(6) and §302.002(d), which provide TWC with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of TWC services and activities.

The adopted rules implement Title 4, Texas Labor Code, Chapter 302, Subchapter J.

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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Les Trobman
General Counsel
Texas Workforce Commission
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Proposal publication date: March 20, 2026
For further information, please call: (737) 301-9662

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# CHAPTER 814. ADVANCED NUCLEAR ENERGY WORKFORCE DEVELOPMENT PROGRAM

The Texas Workforce Commission (TWC) adopts new Chapter 814, relating to Advanced Nuclear Energy Workforce Development Program, comprising the following subchapters:

Subchapter A. General Provisions, §814.1

Subchapter B. Program Administration, §§814.11 - 814.13

New §§814.1 and 814.11 - 814.13 are adopted without changes to the proposal, as published in the March 20, 2026, issue of the *Texas Register* (51 TexReg 1805), and, therefore, the adopted rule text will not be published.

PART I. PURPOSE, BACKGROUND, AND AUTHORITY

The purpose of the new Chapter 814 rules is to establish and administer the Advanced Nuclear Energy Workforce Development Program.

Senate Bill 1535 (SB 1535), 89th Texas Legislature, Regular Session, 2025, amended Texas Labor Code, Chapter 302, Sub-

chapter A, by adding §302.0081 relating to the creation of the Advanced Nuclear Energy Workforce Development Program.

SB 1535 tasks TWC, in collaboration with the Texas Education Agency (TEA) and the Texas Higher Education Coordinating Board (THECB), and in consultation with representatives designated by the Public Utility Commission of Texas (PUCT), to establish and administer the program. TWC will also work with the newly established Texas Advanced Nuclear Energy Office, which is responsible for overall planning, coordinating, promoting, and providing other supports to develop the nuclear energy industry in Texas.

SB 1535 also requires TWC to adopt rules as necessary to administer the program for the purpose of addressing urgent skilled labor demands in the advanced nuclear energy industry in Texas. The program will involve creating a strategic plan that meets SB 1535 requirements and developing curriculum requirements in collaboration with TEA and THECB.

PART II. EXPLANATION OF INDIVIDUAL PROVISIONS

SUBCHAPTER A. GENERAL PROVISIONS

TWC adopts new Subchapter A, General Provisions, as follows:

§814.1. Purpose and Goal

New §814.1 states the Advanced Nuclear Energy Workforce Development Program's purpose and goal.

SUBCHAPTER B. PROGRAM ADMINISTRATION

TWC adopts new Subchapter B, Program Administration, as follows:

§814.11. Strategic Plan

New §814.11 details the requirements for the Advanced Nuclear Energy Workforce Development Program's strategic plan.

§814.12. Curriculum Development

New §814.12 outlines the requirements for curriculum development.

§814.13. Annual Report

New §814.13 details reporting requirements for TWC in consultation with TEA and THECB.

TWC hereby certifies that the new rules have been reviewed by legal counsel and found to be within TWC's legal authority to adopt.

PART III. PUBLIC COMMENTS

The comment period ended on April 20, 2026.

TWC received comments from the following:

--Gulf Coast Workforce Board

--Workforce Solutions Gulf Coast

--The Scaffold Initiative

COMMENT: The Gulf Coast Workforce Board and Workforce Solutions Gulf Coast jointly expressed their support for the proposed rules for the Advanced Nuclear Energy Workforce Development Program. Highlighting the Gulf Coast region's existing groundwork in industry-aligned workforce models and its experience in deploying successful training programs in technical fields, the commenters provided recommendations on how to strengthen program implementation by leveraging the existing workforce system, aligning curriculum with employer demand, incorporating work-based learning, and using outcome-based reporting for continuous improvement.

RESPONSE: The Commission appreciates the comment and support for the Advanced Nuclear Energy Workforce Development Program. TWC and the Texas Workforce Solutions network remain committed to the program's successful implementation and ongoing administration. No changes were made in response to the comment.

COMMENT: The Scaffold Initiative expressed its support for the Advanced Nuclear Energy Program and submitted the following recommendations: integrate artificial intelligence (AI) and automation competencies into existing curricula, which is vital for worker effectiveness in the AI-reliant nuclear sector; expand curriculum consultation to include community-based workforce organizations, thereby leveraging their expertise in adult learning; and establish coordination between the Advanced Nuclear Energy Workforce Development Program and the Rural Workforce Development Grant Program (Chapter 812) to ensure integrated support for rural communities near planned nuclear sites.

RESPONSE: The Commission appreciates the support and recommendations for the Advanced Nuclear Energy Workforce Development Program, as well as the organization's insights regarding the integration of AI and digital literacy into training programs. No changes were made in response to this comment; however, these valuable suggestions will be considered as we move forward with implementation of the program.

## SUBCHAPTER A. GENERAL PROVISIONS

### 40 TAC §814.1

PART IV. STATUTORY AUTHORITY

The new rule is adopted under the authority of:

--Texas Labor Code, §302.0081(b), as added by SB 1535, 89th Texas Legislature, Regular Session, 2025, which requires TWC to adopt rules for the establishment and administration of the Advanced Nuclear Energy Workforce Development Program.

--Texas Labor Code, §301.0015(6) and §302.002(d), which provide TWC with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of TWC services and activities.

The adopted rule relates to Title 4, Texas Labor Code, Chapter 302, Subchapter A.

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 July 27, 2026.

TRD-202603155
Les Trobman
General Counsel
Texas Workforce Commission
Effective date: August 16, 2026
Proposal publication date: March 20, 2026
For further information, please call: (737) 301-9662

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## SUBCHAPTER B. PROGRAM ADMINISTRATION

**40 TAC §§814.11 - 814.13**

The new rules are adopted under the authority of:

--Texas Labor Code, §302.0081(b), as added by SB 1535, 89th Texas Legislature, Regular Session, 2025, which requires TWC to adopt rules for the establishment and administration of the Advanced Nuclear Energy Workforce Development Program.

--Texas Labor Code, §301.0015(6) and §302.002(d), which provide TWC with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of TWC services and activities.

The adopted rules relate to Title 4, Texas Labor Code, Chapter 302, Subchapter A.

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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Les Trobman
General Counsel
Texas Workforce Commission
Effective date: August 16, 2026
Proposal publication date: March 20, 2026
For further information, please call: (737) 301-9662

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# CHAPTER 815. UNEMPLOYMENT INSURANCE

## SUBCHAPTER B. BENEFITS, CLAIMS, AND APPEALS

**40 TAC §815.20, §815.28**

The Texas Workforce Commission (TWC) adopts amendments to the following sections of Chapter 815, relating to Unemployment Insurance:

Subchapter B. Benefits, Claims, and Appeals, §815.20 and §815.28

Amended §815.20 and §815.28 are adopted without changes to the proposal, as published in the May 1, 2026, issue of the *Texas Register* (51 TexReg 2893), and, therefore, the adopted rule text will not be published.

PART I. PURPOSE, BACKGROUND, AND AUTHORITY

The purpose of the Chapter 815 rule change is to implement the provisions of House Bill 3698 (HB 3698), enacted by the 89th Texas Legislature, Regular Session, 2025, relating to participation in reemployment services as a condition of eligibility for unemployment benefits.

HB 3698 amended Texas Labor Code, §207.021(a), to expand participation in reemployment services under the federal Reemployment Services and Eligibility Assessment (RESEA) Program. HB 3698 revised the conditions under which such participation is required for unemployment compensation eligibility.

Additionally, the rule amendments will:

--increase the minimum number of required weekly work search contacts from three to five;

--add a requirement for claimants to verify their identity;

--add additional groups of individuals who are exempt from the work registration and work search requirements; and

--correct outdated references.

PART II. EXPLANATION OF INDIVIDUAL PROVISIONS

(Note: Minor editorial changes are made that do not change the meaning of the rules and, therefore, are not discussed in the Explanation of Individual Provisions.)

SUBCHAPTER B. BENEFITS, CLAIMS, AND APPEALS

TWC adopts the following amendments to Subchapter B:

Section 815.20. Claim for Benefits

Section 815.20(7) is amended to conform with Texas Labor Code, §207.021(a), as amended by HB 3698, relating to the expansion of participation in reemployment services, and to correct a Texas Labor Code reference.

Section 815.20(8) is amended to add two new categories of unemployment benefits claimants who are exempt from the requirement to register for work. This change is necessary to align §815.28 with §815.28, as amended.

Additionally, new §815.20(11) formalizes TWC's existing identity verification requirements to provide clarity and increase understanding by parties to a claim. These requirements are critical to protect the integrity of the unemployment compensation system from identity fraud. This amendment is based on TWC's existing authority under Texas Labor Code, §207.021(a)(1) and does not expand that authority or create new requirements for claimants.

Section 815.28. Work Search Requirements

Section 815.28 is amended to increase a claimant's TWC-required minimum number of weekly work search contacts from three to five. This adjustment reflects the efficiency of modern online job searching and the abundance of job opportunities in the thriving Texas economy. The increased requirement encourages active engagement in the labor market and facilitates quicker reemployment. This establishes a statewide minimum while preserving the Local Workforce Development Boards' authority, as approved by the Commission, to recommend higher requirements based on regional labor market conditions.

Section 815.28 is also amended to add limited exemptions to the work search requirement for certain individuals in areas affected by a disaster and certain federal employees in temporary layoff status due to a government furlough or shutdown. This amendment is made in response to a recommendation from the US Department of Labor.

PART III. PUBLIC COMMENTS

The comment period ended on June 1, 2026. No comments were received.

PART IV. STATUTORY AUTHORITY

The rules are adopted under Texas Labor Code, §301.0015 and §302.002(d), which provide TWC with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of TWC services and activities.

The adopted rules relate to Texas Labor Code, Title 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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Les Trobman
General Counsel
Texas Workforce Commission
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For further information, please call: (737) 301-9662

Texas

# Review Of Agency Rules

This section contains notices of state agency rule review as directed by the Texas Government Code, §2001.039. Included here are proposed rule review notices, which invite public comment to specified rules under review; and adopted rule review notices, which summarize public comment received as part of the review. The complete text of an agency's rule being reviewed is available in the *Texas Administrative Code* on the Texas Secretary of State's website.

For questions about the content and subject matter of rules, please contact the state agency that is reviewing the rules. Questions about the website and printed copies of these notices may be directed to the *Texas Register* office.

## Proposed Rule Reviews

Office of Consumer Credit Commissioner

**Title 7, Part 5**

On behalf of the Finance Commission of Texas (commission), the Office of Consumer Credit Commissioner files this notice of intention to review and consider for readoption, revision, or repeal, Texas Administrative Code, Title 7, Part 5, Chapter 90, concerning Chapter 342, Plain Language Contract Provisions.

This rule review will be conducted pursuant to Texas Government Code, §2001.039. The commission will accept written comments received on or before the 30th day after the date this notice is published in the *Texas Register* as to whether the reasons for adopting these rules continue to exist.

The Office of Consumer Credit Commissioner, which administers these rules, believes that the reasons for adopting the rules contained in this chapter continue to exist. Any questions or written comments pertaining to this notice of intention to review should be directed to Matthew Nance, General Counsel, Office of Consumer Credit Commissioner, 2601 North Lamar Boulevard, Austin, Texas 78705, or by email to rule.comments@occc.texas.gov. Any proposed changes to the rules as a result of the review will be published in the Proposed Rules Section of the *Texas Register* and will be open for an additional public comment period prior to final adoption or repeal by the commission.

TRD-202603213
Matthew Nance
General Counsel
Office of Consumer Credit Commissioner
Filed: July 29, 2026

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Texas Higher Education Coordinating Board

**Title 19, Part 1**

The Texas Higher Education Coordinating Board (Coordinating Board) proposes the review of Texas Administrative Code (TAC), Title 19, Part 1, Chapter 4, Subchapter D, Dual Credit Partnerships Between Secondary Schools and Texas Public Colleges, pursuant to Texas Government Code §2001.039.

This review is conducted as required by law, which states that state agencies must assess whether the initial reasons for adopting a rule continue to exist every four years. As required by statute, the Coordinating Board will accept comments as to whether TAC, Chapter 4, Subchapter D, should continue.

Comments on the review may be submitted to Kimberly Fuchs, Assistant General Counsel, P.O. Box 12788, Austin, Texas 78711-2788, or via email at RulesComments@highered.texas.gov. Comments will be accepted for 30 days following publication of this notice in the *Texas Register.*

The text of the rule section being reviewed will not be published, but may be found in TAC, Title 19, Part 1, Chapter 4, Subchapter D.

TRD-202603061
Douglas Brock
General Counsel
Texas Higher Education Coordinating Board
Filed: July 23, 2026

♦ ♦ ♦

The Texas Higher Education Coordinating Board (Coordinating Board) proposes the review of Texas Administrative Code (TAC), Title 19, Part 1, Chapter 22, Subchapter G, Texas College Work-Study Program, pursuant to Texas Government Code §2001.039.

This review is conducted as required by law, which states that state agencies must assess whether the initial reasons for adopting a rule continue to exist every four years. As required by statute, the Coordinating Board will accept comments as to whether TAC, Chapter 22, Subchapter G, should continue.

Comments on the review may be submitted to Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, P.O. Box 12788, Austin, Texas 78711-2788, or via email at SFAPPolicy@highered.texas.gov. Comments will be accepted for 30 days following publication of this notice in the *Texas Register.*

The text of the rule section being reviewed will not be published, but may be found in TAC, Title 19, Part 1, Chapter 22, Subchapter G.

TRD-202603084
Douglas Brock
General Counsel
Texas Higher Education Coordinating Board
Filed: July 23, 2026

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## Adopted Rule Reviews

Texas Higher Education Coordinating Board

**Title 19, Part 1**

The Texas Higher Education Coordinating Board (Coordinating Board) adopts the review of Title 19, Part 1, Chapter 1, Subchapter L, Formula Advisory Committee - General Academic Institutions, Technical Col-

leges, and State Colleges, §1.164 and §§1.166 - 1.169 without changes. Sections 1.165 and 1.170 is recommended to be readopted with changes as proposed for the October 2026 meeting in accordance with the requirements of the Government Code, §2001.039.

The proposed notice of review was published in the April 10, 2026, issue of the *Texas Register* (51 TexReg 2409). No comments were received regarding the review of this chapter. During its review, the Coordinating Board determined that the initial reasons for adopting §§1.164 -1.169 continue to exist. Sections 1.164 and 1.166 - 1.169 are readopted and §1.165 and §1.170, are recommended to be readopted as amended for the October 2026 meeting, in accordance with the requirements of the Government Code, §2001.039.

This concludes the Coordinating Board's review of Chapter 1, Subchapter L, as required by the Texas Government Code, §2001.039.

TRD-202603095
Douglas Brock
General Counsel
Texas Higher Education Coordinating Board
Filed: July 23, 2026

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The Texas Higher Education Coordinating Board (Coordinating Board) adopts the review of Title 19, Part 1, Chapter 1, Subchapter M, Formula Advisory Committee Health-Related Institutions, §§1.171 - 1.176 without changes. Section 1.177 is recommended to be amended in October 2026 in accordance with the requirements of the Government Code, §2001.039.

The proposed notice of review was published in the April 10, 2026, issue of the *Texas Register* (51 TexReg 2409). No comments were received regarding the review of this chapter. During its review, the Coordinating Board determined that the initial reasons for adopting the rules continue to exist. Sections 1.171 - 1.176 are readopted, and §1.177 is recommended to be readopted as amended in October 2026, in accordance with the requirements of the Government Code, §2001.039.

This concludes the Coordinating Board's review of Chapter 1, Subchapter M, as required by the Texas Government Code, §2001.039.

TRD-202603096
Douglas Brock
General Counsel
Texas Higher Education Coordinating Board
Filed: July 23, 2026

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The Texas Higher Education Coordinating Board (Coordinating Board) adopts the review of Title 19, Part 1, Chapter 1, Subchapter V, Texas Transfer Advisory Committee and Discipline-Specific Subcommittees, §§1.237 - 1.243 without changes.

The proposed notice of review was published in the April 10, 2026, issue of the *Texas Register* (51 TexReg 2409). No comments were received regarding the review of this chapter. During its review, the Coordinating Board determined that the initial reasons for adopting the rules continue to exist. Sections 1.237 - 1.243 are readopted in accordance with the requirements of the Government Code, §2001.039.

This concludes the Coordinating Board's review of Chapter 1, Subchapter V, as required by Texas Government Code, §2001.039.

TRD-202603097
Douglas Brock
General Counsel
Texas Higher Education Coordinating Board
Filed: July 23, 2026

♦ ♦ ♦

The Texas Higher Education Coordinating Board (Coordinating Board) adopts the review of Title 19, Part 1, Chapter 1, Subchapter AA, Sick Leave Pool, §1.900.

The proposed notice of review was published in the April 10, 2026, issue of the *Texas Register* (51 TexReg 2410). No comments were received regarding the review of this subchapter. During its review, the Coordinating Board determined that the initial reasons for adopting this section still exist, but that it should be repealed and replaced with an updated version in Chapter 1, Subchapter F.

Rule 1.900 will be recommended for repeal at the July 2026 and Chapter 1, Subchapter F, will be recommended for adoption in accordance with the requirements of the Government Code, §2001.039.

This concludes the Coordinating Board's review of Chapter 1, Subchapter AA, as required by the Texas Government Code, §2001.039.

TRD-202603093
Douglas Brock
General Counsel
Texas Higher Education Coordinating Board
Filed: July 23, 2026

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The Texas Higher Education Coordinating Board (Coordinating Board) adopts the review of Title 19, Part 1, Chapter 5, Subchapter E, Texas Governor's Schools, §§5.91 - 5.96 without changes.

The proposed notice of review was published in the April 10, 2026, issue of the *Texas Register* (51 TexReg 2409). No comments were received regarding the review of this chapter. During its review, the Coordinating Board determined that the initial reasons for adopting these sections continue to exist. Sections 5.91 - 5.96 are readopted in accordance with the requirements of the Government Code, §2001.039.

This concludes the Coordinating Board's review of Chapter 5, Subchapter E, as required by the Texas Government Code, §2001.039.

TRD-202603107
Douglas Brock
General Counsel
Texas Higher Education Coordinating Board
Filed: July 23, 2026

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The Texas Higher Education Coordinating Board (Coordinating Board) adopts the review of Title 19, Part 1, Chapter 5, Subchapter F, Math, Science, and Technology Teacher Preparation Academies, §§5.111 - 5.115.

The proposed notice of review was published in the April 10, 2026, issue of the *Texas Register* (51 TexReg 2409). No comments were received regarding the review of this subchapter. During its review, the Coordinating Board determined that the initial reasons for adopting these sections no longer exist. Sections 5.111 - 5.115 will be recommended for repeal at the October 2026 meeting in accordance with the requirements of the Government Code, §2001.039.

This concludes the Coordinating Board's review of Chapter 5, Subchapter F, as required by the Texas Government Code, §2001.039.

TRD-202603109
Douglas Brock
General Counsel
Texas Higher Education Coordinating Board
Filed: July 23, 2026

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The Texas Higher Education Coordinating Board (Coordinating Board) adopts the review of Title 19, Part 1, Chapter 13, Subchapter A, Definitions, §13.1, without changes. Section 13.1 is readopted with amendments as published concurrently with this notice in accordance with the requirements of the Government Code, §2001.039.

The proposed notice of review was published in the April 10, 2026, issue of the *Texas Register* (51 TexReg 2409). No comments were received regarding the review of this chapter. During its review, the Coordinating Board determined that the initial reasons for adopting this section continues to exist. Section 13.1 is readopted in accordance with the requirements of the Government Code, §2001.039.

This concludes the Coordinating Board's review of Chapter 13, Subchapter A, as required by the Texas Government Code, §2001.039.

TRD-202603115
Douglas Brock
General Counsel
Texas Higher Education Coordinating Board
Filed: July 23, 2026

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## Department of State Health Services

**Title 25, Part 1**

The Texas Health and Human Services Commission, on behalf of the Texas Department of State Health Services (DSHS), adopts the review of the chapter below in Title 25, Part 1, of the Texas Administrative Code (TAC):

Chapter 146, Training and Certification of Promotores or Community Health Workers

Notice of the review of this chapter was published in the May 22, 2026, issue of the *Texas Register* (51 TexReg 3617) for public comment.

The 31-day comment period ended June 22, 2026. During this period, DSHS did not receive any comments regarding the proposed rule review.

DSHS has reviewed Chapter 146 in accordance with Texas Government Code §2001.039, which requires state agencies to assess, every four years, whether the initial reasons for adopting a rule continue to exist.

DSHS determined that the original reasons for adopting rules in the chapter continue to exist and readopts Chapter 146 except for:

§146.3, Promotor(a) or Community Health Worker Training and Certification Advisory Committee

The repeals identified by DSHS in the rule review and any amendments, if applicable, to Chapter 146 will be proposed in a future issue of the *Texas Register*.

This concludes DSHS' review of 25 TAC Chapter 146 as required by Texas Government Code §2001.039.

TRD-202603098
Jessica Miller
Director, Rules Coordination Office
Department of State Health Services
Filed: July 23, 2026

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## Texas Health and Human Services Commission

**Title 26, Part 1**

The Texas Health and Human Services Commission (HHSC) adopts the review of the chapter below in Title 26, Part 1, of the Texas Administrative Code (TAC):

Chapter 87, Ombudsman Services

Notice of the review of this chapter was published in the May 29, 2026, issue of the *Texas Register* (51 TexReg 3717) for public comment.

The 31-day comment period ended June 29, 2026. During this period, HHSC did not receive any comments regarding the proposed rule review.

HHSC has reviewed Chapter 87 in accordance with Texas Government Code §2001.039, which requires state agencies to assess, every four years, whether the initial reasons for adopting a rule continue to exist.

HHSC determined that the original reasons for adopting all rules in the chapter continue to exist and readopts Chapter 87. Any amendments, if applicable, to Chapter 87 identified by HHSC in the rule review will be proposed in a future issue of the *Texas Register.*

This concludes HHSC's review of 26 TAC Chapter 87 as required by Texas Government Code §2001.039.

TRD-202603091
Jessica Miller
Director, Rules Coordination Office
Texas Health and Human Services Commission
Filed: July 23, 2026

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## Teacher Retirement System of Texas

**Title 34, Part 3**

The Teacher Retirement System of Texas (TRS) adopts the four-year review of its rules in Texas Administrative Code, Title 34, Part 3 Chapters 21, 23, 25, 27, 29, 31, 33, 35, 39, 41, 43, 47, 49, and 51. TRS conducted its review in accordance with the requirements set forth in §2001.039 of the Government Code. TRS received one comment on its proposed review, which was published in the June 5, 2026 issue of the *Texas Register* (51 TexReg 3821).

Specifically, the commenter stated that TRS should amend §25.31 of this title (relating to Percentage Limits on Compensation Increases) to exclude salary increases for members who were previously compensated on a district's teacher salary schedule; moved to a lower-paying position off the salary schedule; then returned to a position subject to the district's salary schedule for teachers. The member states that such an exclusion does not interfere with the rule's intended purpose of preventing artificial salary spiking prior to retirement but still permits routine salary progression under a district's board-approved salary schedule. The commenter also asks that the rule be applied retroactively to any members who meet the requirements of the commenter's recommended exception.

TRS agrees with the comment to consider amending §25.31 at a later date. TRS agrees with the commenter's premise that §25.31 generally should not interfere with routine salary progression under salary sched-

ules approved by school districts or normal career progression. TRS will review the rule for this purpose in light this comment.

TRS, however, declines to commit to any specific exception or amendment to §25.31 at this time as TRS must ensure that any potential exceptions to §25.31 would not expose the fund to unexpected negative actuarial impacts or other impacts that could interfere with the rule's ability to protect the fund. Salary increases due to position changes can still create potentially disproportionate benefit outcomes even if the increases were not due to intentional "spiking." Government Code §825.110, which requires TRS to adopt a percentage limitation on salary increases before retirement, does not limit application of the percentage limitations to such cases of intentional salary spiking.

Lastly, TRS disagrees with applying any future amendment to §25.31 retroactively. TRS does not have the authority to adopt a rule that would retroactively credit compensation to modify members' benefits after they have retired. Further, TRS refunds member contributions based on any compensation excluded under §25.31, so, for retired members, TRS no longer has contributions for the excluded compensation.

Based on this comment and TRS' internal review of its rules, TRS makes the following findings as a result of its rule review.

Relating to the review of Chapter 21, TRS finds that the reasons for adopting Chapter 21 no longer exist. For this reason, Chapter 21, including §21.1, will be repealed in a separate rulemaking proceeding in accordance with the Texas Administrative Procedure Act (APA).

Relating to the review of Chapter 23, TRS finds that the reasons for adopting Chapter 23 continue to exist and readopts the rules at this time without changes. At a later date, §§23.4, 23.5, 23.7, 23.8, and 23.9 will be amended in separate rulemaking proceedings in accordance with the APA.

Relating to the review of Chapter 25, TRS finds that the reasons for adopting the following rules no longer exist: §§25.34, 25.36, 25.37, 25.84, 25.86, and 25.163. For this reason, these rules will be repealed at a later date in a separate rulemaking proceeding in accordance with the APA. TRS also finds that reasons for adopting the remaining rules in Chapter 25 continue to exist and readopts these rules at this time without changes. At a later date, §§25.1, 25.4, 25.10, 25.21, 25.24, 25.26, 25.28, 25.31, 25.66, 25.75, 25.81, 25.82, 25.121, 25.122, 25.123, 25.131, 25.183, 25.184, 25.185, and 25.191 will be amended or repealed and readopted for organizational purposes in separate rulemaking proceedings in accordance with the APA.

Relating to the review of Chapter 27, TRS finds that the reasons for adopting Chapter 27 continue to exist and readopts the rules at this time without changes. At a later date, §27.8, will be amended in a separate rulemaking proceeding in accordance with the APA.

Relating to the review of Chapter 29, TRS finds that the reasons for adopting §29.63 no longer exist and, for this reason, this rule will be repealed at a later date in a separate rulemaking proceeding in accordance with the APA. TRS also finds that reasons for adopting the remaining rules in Chapter 29 continue to exist and readopts these rules at this time without changes. At a later date, §29.26 will be amended in separate rulemaking proceedings in accordance with the APA.

Relating to the review of Chapter 31, TRS finds that the reasons for adopting §31.16 no longer exist and, for this reason, this rule will be repealed at a later date in a separate rulemaking proceeding in accordance with the APA. TRS also finds that reasons for adopting the remaining rules in Chapter 31 continue to exist and readopts these rules at this time without changes. At a later date, §§31.2, 31.3, 31.12, 31.13, 31.15, 31.18, and 31.19 will be amended in separate rulemaking proceedings in accordance with the APA.

Relating to the review of Chapter 33, TRS finds that the reasons for adopting Chapter 33 continue to exist and readopts the rules without changes. At a later date, §§33.1- 33.6, will be amended or repealed and readopted for organizational purposes in a separate rulemaking proceeding in accordance with the APA.

Relating to the review of Chapter 35, TRS finds that the reasons for adopting Chapter 35 continue to exist and readopts the rules without changes.

Relating to the review of Chapter 39, TRS finds that the reasons for adopting Chapter 39 no longer exist. For this reason, Chapter 39, including §39.1, will be repealed in a separate rulemaking proceeding in accordance with the APA.

Relating to the review of Chapter 41, TRS finds that the reasons for adopting §41.13 no longer exist and, for this reason, this rule will be repealed at a later date in a separate rulemaking proceeding in accordance with the APA. TRS also finds that reasons for adopting the remaining rules in Chapter 41 continue to exist and readopts these rules at this time without changes. At a later date, §§41.33, 41.34, 41.36, 41.50, and 41.53 will be amended in separate rulemaking proceedings in accordance with the APA.

Relating to the review of Chapter 43, TRS finds that the reasons for adopting the rules under Subchapter C of Chapter 43 (relating to Hearings Not Docketed at SOAH) no longer exist and, therefore, at a later date, §§43.201 through 43.228 will be repealed in a separate rulemaking proceeding in accordance with the APA. TRS also finds that the rules under Subchapter A (relating to General Administration), Subchapter B (relating to Requests for Adjudicative Hearing) and Subchapter D (relating to Final Decisions of TRS) of Chapter 43 continue to exist and readopts those rules without changes. At a later date, §§43.1, 43.2, 43.3, 43.5, and 43.105 will be amended in separate rulemaking proceedings in accordance with the APA.

Relating to the review of Chapter 47, TRS finds the reasons for adopting §47.16 no longer exist and, for this reason, this rule will be repealed at a later date in a separate rulemaking proceeding in accordance with the APA. The Board also finds that reasons for adopting the remaining rules in Chapter 47 continue to exist and readopts these rules at this time without changes.

Relating to the review of Chapter 49, TRS finds that the reasons for adopting Chapter 49 continue to exist and readopts the rules without changes.

Relating to the review of Chapter 51, TRS finds that the reasons for adopting Chapter 51 continue to exist and readopts the rules at this time without changes. At a later date, §§51.5, 51.11, 51.14 and 51.15 will be amended in separate rulemaking proceedings in accordance with the APA.

This concludes the review of Texas Administrative Code, Title 34, Part 3 Chapters 21, 23, 25, 27, 29, 31, 33, 35, 39, 41, 43, 47, 49, and 51.

TRD-202603089
Brian Guthrie
Executive Director
Teacher Retirement System of Texas
Filed: July 23, 2026

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State Pension Review Board

**Title 40, Part 17**

The Texas Pension Review Board (the Board) has completed its review of all sections in 40 Texas Administrative Code Chapter 610, concerning funding soundness restoration plans.

This review was conducted in accordance with Section 2001.039, Texas Government Code. Notice of the review was published in the March 13, 2026, issue of the *Texas Register* (51 TexReg 1720). The Board did not receive any comments in response to the notice. The Board determined that the initial reasons for adopting the rules in this chapter continue to exist and readopts this chapter.

The Board finds the original reasons for adopting these rules continue to exist but with amendments needed. The amendments are published in the Proposed Rules section of this edition of the *Texas Register*.

This concludes the review of Chapter 610, as required by Section 2001.039, Texas Government Code.

TRD-202603140
Tamara Aronstein
General Counsel
State Pension Review Board
Filed: July 24, 2026

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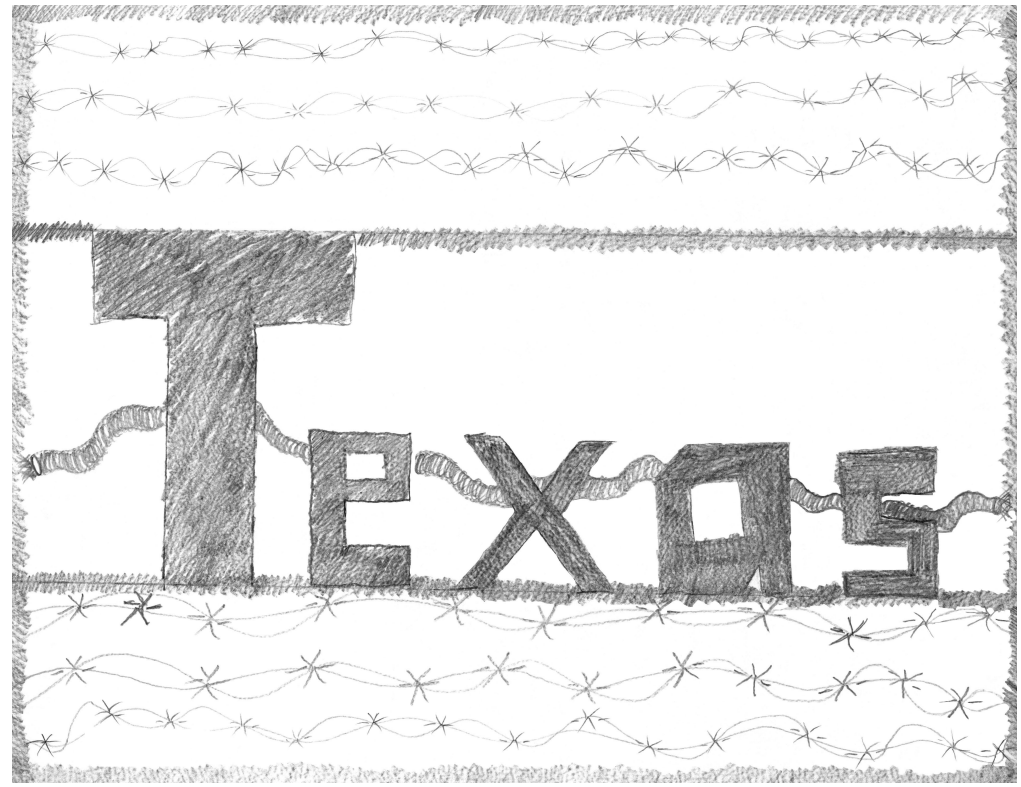
TEXAS

# TABLES & GRAPHICS

Graphic images included in rules are published separately in this tables and graphics section. Graphic images are arranged in this section in the following order: Title Number, Part Number, Chapter Number and Section Number.

Graphic images are indicated in the text of the emergency, proposed, and adopted rules by the following tag: the word "Figure" followed by the TAC citation, rule number, and the appropriate subsection, paragraph, subparagraph, and so on.

Figure: 16 TAC §140.160(h) [~~16 TAC §401.160(h)~~]

| TEXAS LOTTERY [~~COMMISSION~~] RETAILER REGULATORY VIOLATIONS AND RELATED PENALTIES | | | | |
|---|---|---|---|---|
| **No.** | **DESCRIPTION OF VIOLATION** | **1st OCCURRENCE** | **2nd OCCURRENCE** | **3rd OCCURRENCE** |
| | **1st Tier Violations** | | | |
| 1. | Licensee engages in telecommunication or printed advertising that the director determines to have been false, deceptive or misleading. | Warning Letter (Notification in writing to the licensee of the detected violation, including a warning that future violations will result in more severe administrative penalties including Suspension and/or revocation of the license.) | 10-90 day Suspension | 30-90 day Suspension to Revocation |
| 2. | Licensee conditions redemption of a lottery prize upon the purchase of any other item or service. | Warning Letter | 10-90 day Suspension | 30-90 day Suspension to Revocation |
| 3. | Licensee imposes a restriction upon the redemption of a lottery prize not specifically authorized by the director. | Warning Letter | 10-90 day Suspension | 30-90 day Suspension to Revocation |
| 4. | Licensee fails to follow instructions and procedures for the conduct of any lottery game, lottery special event or promotion. | Warning Letter | 10-90 day Suspension | 30-90 day Suspension to Revocation |
| 5. | Licensee and/or its employee(s) exhibit abusive [~~discourteous~~] treatment including, but not limited to, abusive language toward customers, department | Warning Letter | 10-90 day Suspension | 30-90 day Suspension to Revocation |

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| | [~~commission~~] employees or department [~~commission~~] vendors. | | | |
| 6. | Licensee fails to establish or maintain reasonable security precautions regarding the handling of lottery tickets and other materials. | Warning Letter | 10-90 day Suspension | 30-90 day Suspension to Revocation |
| 7. | Licensee fails to deface a validated ticket. | Warning Letter | 10-90 day Suspension | 30-90 day Suspension to Revocation |
| 8. | Licensee sells a draw game ticket for a draw that has already taken place. | Warning Letter | 10-90 day Suspension | 30-90 day Suspension to Revocation |
| 9. | Licensee fails to follow validation procedures, including, but not limited to, paying a claim without validating the ticket, failing to pay a valid prize after validating a customer's winning ticket, or retaining a customer's winning ticket that has not been validated. | Warning Letter | 10-90 day Suspension | 30-90 day Suspension to Revocation |
| 10. | Licensee violates any directive or instruction issued by the director [~~of Lottery Operations~~]. | Warning Letter | 10-90 day Suspension | 30-90 day Suspension to Revocation |
| 11. | Licensee violates any express term or condition of its license not specifically set forth in this subchapter. | Warning Letter | 10-90 day Suspension | 30-90 day Suspension to Revocation |
| 12. | Licensee sells a scratch ticket from a game that has closed after the date designated for the end of the game. | Warning Letter | 10-90 day Suspension | 30-90 day Suspension to Revocation |
| 13. | Licensee refuses to refund or properly cancel a Pick 3 or Daily 4 ticket. | Warning Letter | 10-90 day Suspension | 30-90 day Suspension to Revocation |

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| 14. | Licensee fails to return an exchange ticket to a prize claimant claiming a prize on a multi-draw ticket if an exchange ticket is produced by the licensee's terminal. | Warning Letter | 10-90 day Suspension | 30-90 day Suspension to Revocation |
| 15. | Licensee fails to keep accurate and complete records of all tickets that have not been sold from confirmed, active, and settled packs. | Warning Letter | 10-90 day Suspension | 30-90 day Suspension to Revocation |
| 16. | Licensee fails to meet any requirement under §140.368 [~~§401.368~~], Lottery Ticket Vending Machines rule, if the licensee has been supplied with a self-service lottery ticket vending machine by the department [~~commission~~]. | Warning Letter | 10-90 day Suspension | 30-90 day Suspension to Revocation |
| 17. | Licensee fails to take readily achievable measures within the allowed time period to comply with the barrier removal requirements regarding the ADA. | Warning Letter | 10-90 day Suspension | 30-90 day Suspension to Revocation |
| 18. | Licensee fails to prominently post license. | Warning Letter | 10-90 day Suspension | 30-90 day Suspension to Revocation |
| 19. | Licensee sells tickets that were assigned to another licensed location. | Warning Letter | 10-90 day Suspension | 30-90 day Suspension to Revocation |
| 20. | Licensee knowingly sells a ticket or pays a lottery prize to another person who is: (A) an officer or an employee of the department [~~commission~~]; (B) an officer, member, or employee of a lottery operator; (C) an officer, member, or employee of a contractor or subcontractor that is excluded by the terms of its contract from | Warning Letter | 10-90 day Suspension | 30-90 day Suspension to Revocation |

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| | playing lottery games; (D) the spouse, child, brother, sister, or parent of a person described by (A), (B), or (C) above who resides within the same household as that person. | | | |
| **2nd Tier Violations** | | | | |
| 21. | Licensee endangers the security and/or integrity of the lottery games operated by the department [~~commission~~]. | 10-90 day Suspension to Revocation | 30-90 day Suspension to Revocation | Revocation |
| 22. | Licensee intentionally or knowingly sells a ticket at a price the licensee knows is greater than the price set by the executive director. | 10-90 day Suspension to Revocation | 30-90 day Suspension to Revocation | Revocation |
| 23. | Licensee charges a fee for lottery ticket purchases using a debit card, requires an additional purchase with a debit card, and/or requires a minimum dollar amount for debit card purchases of only lottery tickets. | 10-90 day Suspension to Revocation | 30-90 day Suspension to Revocation | Revocation |
| 24. | Licensee sells tickets at a location that is not licensed. | 10-90 day Suspension to Revocation | 30-90 day Suspension to Revocation | Revocation |
| 25. | Licensee intentionally or knowingly sells a ticket by extending credit or lends money to enable a person to buy a ticket. | 10-90 day Suspension to Revocation | 30-90 day Suspension to Revocation | Revocation |
| 26. | Licensee intentionally or knowingly sells a ticket and accepts anything for payment not specifically allowed under the State Lottery Act. | 10-90 day Suspension to Revocation | 30-90 day Suspension to Revocation | Revocation |
| 27. | Licensee sells tickets over the telephone or Internet, or via mail order sales; or establishes or promotes a group purchase or pooling arrangement under | 10-90 day Suspension to Revocation | 30-90 day Suspension to Revocation | Revocation |

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| | which tickets are purchased on behalf of the group or pool and any prize is divided among the members of the group or pool, and the licensee intentionally or knowingly: (A) uses any part of the funds solicited or accepted for a purpose other than purchasing tickets on behalf of the group or pool; or (B) retains a share of any prize awarded as compensation for establishing or promoting the group purchase or pooling arrangement. | | | |
| 28. | Licensee intentionally or knowingly alters or forges a ticket. | 10-90 day Suspension to Revocation | 30-90 day Suspension to Revocation | Revocation |
| 29. | Licensee intentionally or knowingly influences or attempts to influence the selection of a winner of a lottery game. | 10-90 day Suspension to Revocation | 30-90 day Suspension to Revocation | Revocation |
| 30. | Licensee intentionally or knowingly claims a lottery prize or a share of a lottery prize by means of fraud, deceit, or misrepresentation; or aids or agrees to aid another person or persons to claim a lottery prize or a share of a lottery prize by means of fraud, deceit, or misrepresentation. | 10-90 day Suspension to Revocation | 30-90 day Suspension to Revocation | Revocation |
| 31. | Licensee intentionally or knowingly tampers with, damages, defaces, or renders inoperable any vending machine, electronic computer terminal, or other mechanical device used in a lottery game, or fails to exercise due care in the treatment of department [~~commission~~] property. | 10-90 day Suspension to Revocation | 30-90 day Suspension to Revocation | Revocation |

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| 32. | Licensee: (A) induces another person to assign or transfer a right to claim a prize; (B) initiates or accepts an offer to sell the right to claim a prize; (C) initiates or accepts an offer of compensation from another person to claim a lottery prize; or (D) purchases, for anything of value, a lottery ticket from a person who is not a licensed lottery retailer. | 10-90 day Suspension to Revocation | 30-90 day Suspension to Revocation | Revocation |
| 33. | Licensee intentionally or knowingly makes a statement or entry that the person knows to be false or misleading on a required report. | 10-90 day Suspension to Revocation | 30-90 day Suspension to Revocation | Revocation |
| 34. | Licensee fails to maintain or make an entry the licensee knows is required to be maintained or made for a required report. | 10-90 day Suspension to Revocation | 30-90 day Suspension to Revocation | Revocation |
| 35. | Licensee knowingly refuses to permit the director [~~of the Lottery Operations Division, the executive director~~], the employees of the department [~~commission, the lottery operator~~], the employees or agents of the lottery operator, or the state auditor to examine the agent's books, records, papers or other objects, or refuses to answer any question authorized under the State Lottery Act. | 10-90 day Suspension to Revocation | 30-90 day Suspension to Revocation | Revocation |
| 36. | Licensee intentionally or knowingly makes a material and false or incorrect, or deceptive statement, written or oral, to a person conducting an investigation under the State | 10-90 day Suspension to Revocation | 30-90 day Suspension to Revocation | Revocation |

| | | | | |
|---|---|---|---|---|
| | Lottery Act or a department [~~commission~~] rule. | | | |
| 37. | Licensee commits an offense of conspiracy as defined in the State Lottery Act. | 10-90 day Suspension to Revocation | 30-90 day Suspension to Revocation | Revocation |
| 38. | Licensee sells or offers for sale any interest in a lottery of another state or state government or an Indian tribe or tribal government, including an interest in an actual lottery ticket, receipt, contingent promise to pay, order to purchase, or other record of the interest. | 10-90 day Suspension to Revocation | 30-90 day Suspension to Revocation | Revocation |
| 39. | Licensee sells to one individual more than 100 lottery tickets in a single transaction, whether draw game tickets, scratch tickets, or any combination. | 10-90 day Suspension to Revocation | 30-90 day Suspension to Revocation | Revocation |
| **3rd Tier Violations** | | | | |
| 40. [~~39.~~] | Licensee, with criminal negligence, [~~Licensee intentionally or knowingly~~] sells or offers to sell a ticket to a person that the licensee knows is younger than 18 years. | Revocation | n/a | n/a |
| 41. [~~40.~~] | Licensee incurs four (4) notices of nonsufficient fund transfers or non-transfer of funds within a 12-month period. | Revocation | n/a | n/a |
| 42. [~~41.~~] | Licensee fails to pay the full amount of money owed to the department [~~commission~~] after a nonsufficient funds transfer or non-transfer of funds to the department's [~~commission's~~] account. | Revocation | n/a | n/a |
| 43. [~~42.~~] | Licensee knowingly sells tickets to, works with, or otherwise assists a lottery ticket courier service. | Revocation | n/a | n/a |

| | | | | |
|---|---|---|---|---|
| 44. | Licensee knowingly sells or allows the sale of tickets for a lottery game involving a drawing to one or more persons attempting to purchase all or substantially all possible winning tickets for the drawing. | Revocation of all licensed locations. | n/a | n/a |
| 45. | Licensee fails to verify the age of each ticket purchaser at the point of sale. | Revocation | n/a | n/a |
| 46. | Licensee by telephone, Internet application, or mobile Internet application facilitates the purchase or orders the purchase of a ticket for a lottery game. | Revocation | n/a | n/a |
| 47. | Licensee by telephone, Internet application, or mobile Internet application, for compensation, accepts an order for a ticket for a lottery game from a player, sells a ticket for a lottery game to a player, or arranges to purchase a ticket on behalf of a person playing a lottery game; or arranges for another person to purchase a ticket on behalf of a person playing a lottery game. | Revocation | n/a | n/a |
| 48. | Licensee sells tickets to a person who is not physically present at the retailer's location, a person outside the retailer's licensed location, or to a person outside the normal business hours of the retailer's licensed location. | Revocation | n/a | n/a |

Figure: 19 TAC §13.666(b)(2)

| Classification of Instructional Programs Code | Field Title |
|---|---|
| 13 | Education |
| 25 | Library Science |
| 19.0706 | Child Development |
| 19.0708 | Childcare and Support Services Management |
| 19.0709 | Childcare Provider/Assistant |
| 51 | Health Professions and related programs |
| 12.03 | Funeral Service and Mortuary Services |
| 19.0707 | Family and Community Services |

Figure: 19 TAC §13.669

| Fundable Outcome | Funded Rate | Funded Rate for Completion in a High-Demand Field |
|---|---|---|
| (1) Fundable Credentials | *See subtypes below* | *See subtypes below* |
| (A) Associate Degree | $3,500 | $4,500 |
| (B) Baccalaureate Degree | $3,500 | $4,500 |
| (C) Certificate (Advanced Technical Certificate, Level 1 or Level 2 Certificate, Continuing Education Certificate) | $1,750 | $3,500 |
| (D) Occupational Skills Award | $1,000 | $1,250 |
| (E) Institutional Credential Leading to Licensure or Certification | $1,000 | $1,250 |
| (2) Credential of Value Premium | *See subtypes below* | *See subtypes below* |
| (A) Associate Degree | $875 | n/a |
| (B) Baccalaureate Degree | $875 | n/a |
| (C) Certificate (Advanced Technical Certificate, Level 1 or Level 2 Certificate, Continuing Education Certificate) | $437 | n/a |
| (3) Dual Credit Fundable Outcome | $3,500 | n/a |
| (4) Transfer Fundable Outcome | $3,500 | n/a |
| (5) Structured Co-Enrollment Fundable Outcome | $3,500 | n/a |
| (6) Opportunity High School Diploma Fundable Outcome | $3,500 | n/a |

Figure: 22 TAC §884.31(c)

**NOTICE TO CLIENTS**

The Texas Behavioral Health Executive Council investigates and prosecutes professional misconduct committed by marriage and family therapists, professional counselors, psychologists, psychological associates, social workers, and [~~licensed specialists in~~] school psychologists. [~~psychology.~~]

Although not every complaint against or dispute with a licensee involves professional misconduct, the Executive Council will provide you with information about how to file a complaint.

For more information please contact the Executive Council at:

Texas Behavioral Health Executive Council
George H.W. Bush State Office Building
1801 Congress Avenue., Suite 7.300
Austin, Texas 78701
(512) 305-7709 or 1-800-821-3205
bhec.texas.gov or enforcement@bhec.texas.gov

~~[Please call 1-800-821-3205 for more information.]~~

Furthermore, you may also file a consumer protection complaint with the Office of the Attorney General's Consumer Protection Division. For more information please go to: texasattorneygeneral.gov/consumer-protection.

Additionally, you may request a copy of your mental health records by contacting your provider.

# IN ADDITION

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings issued by the Office of Consumer Credit Commissioner, and consultant proposal requests and awards. State agencies also may publish other notices of general interest as space permits.

## Comptroller of Public Accounts

### Certification of the Average Closing Price of Gas and Oil - June 2026

The Comptroller of Public Accounts, administering agency for the collection of the Oil Production Tax, has determined, as required by Tax Code, §202.058, that the average taxable price of oil for reporting period June 2026 is $58.09 per barrel for the three-month period beginning on March 1, 2026, and ending May 31, 2026. Therefore, pursuant to Tax Code, §202.058, oil produced during the month of June 2026, from a qualified low-producing oil lease, is not eligible for credit on the oil production tax imposed by Tax Code, Chapter 202.

The Comptroller of Public Accounts, administering agency for the collection of the Natural Gas Production Tax, has determined, as required by Tax Code, §201.059, that the average taxable price of gas for reporting period June 2026 is $1.34 per mcf for the three-month period beginning on March 1, 2026, and ending May 31, 2026. Therefore, pursuant to Tax Code, §201.059, gas produced during the month of June 2026, from a qualified low-producing well, is eligible for a 100% credit on the natural gas production tax imposed by Tax Code, Chapter 201.

The Comptroller of Public Accounts, administering agency for the collection of the Franchise Tax, has determined, as required by Tax Code, §171.1011(s), that the average closing price of West Texas Intermediate crude oil for the month of June 2026 is $81.79 per barrel. Therefore, pursuant to Tax Code, §171.1011(r), a taxable entity shall not exclude total revenue received from oil produced during the month of June 2026, from a qualified low-producing oil well.

The Comptroller of Public Accounts, administering agency for the collection of the Franchise Tax, has determined, as required by Tax Code, §171.1011(s), that the average closing price of gas for the month of June 2026 is $3.20 per MMBtu. Therefore, pursuant to Tax Code, §171.1011(r), a taxable entity shall exclude total revenue received from gas produced during the month of June 2026, from a qualified low-producing gas well.

Inquiries should be submitted to Jenny Burleson, Director/General Counsel, Tax Policy Division, P.O. Box 13528, Austin, Texas 78711-3528.

Issued in Austin, Texas, on July 29, 2026.

TRD-202603215
Jenny Burleson
Director/General Counsel, Tax Policy
Comptroller of Public Accounts
Filed: July 29, 2026

♦ ♦ ♦

## Office of Consumer Credit Commissioner

### Notice of Rate Ceilings

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in §303.003, and §303.009, Texas Finance Code.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 08/03/26-08/09/26 is 18.00% for consumer[1] credit.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 08/03/26-08/09/26 is 18.00% for commercial[2] credit.

[1] Credit for personal, family, or household use.

[2] Credit for business, commercial, investment, or other similar purpose.

TRD-202603211
Leslie L. Pettijohn
Commissioner
Office of Consumer Credit Commissioner
Filed: July 29, 2026

♦ ♦ ♦

## Texas Education Agency

### Correction of Error

The Texas Education Agency proposed amendments to 19 TAC §97.1066 in the April 3, 2026, issue of the *Texas Register* (51 TexReg 2175).

Due to an error by the Texas Register, the amended date in 19 TAC §97.1066(f)(4)(C)(iv) was incorrect. The correct text is as follows:

(iv) the school district timely submits all information required by the commissioner to make a determination under this subsection. Failure to submit information by May 31 [~~June 30~~] may result in non-approval of the new CDCN.

TRD-202603219

♦ ♦ ♦

## Texas Commission on Environmental Quality

### Agreed Orders

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) in accordance with Texas Water Code (TWC), §7.075. TWC, §7.075 requires that before the commission may approve the AOs, the commission shall allow the public an opportunity to submit written comments on the proposed AOs. TWC, §7.075 requires that notice of the proposed orders and the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **September 7, 2026**. TWC, §7.075 also requires that the commission promptly consider any written comments received and that the commission may withdraw or withhold approval of an AO if a comment discloses facts or considerations that indicate that consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed AO is not required to be published if those changes are made in response to written comments.

A physical copy of each proposed AO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building C, 1st Floor, Austin, Texas 78753, (512) 239-2545 and at the applicable regional office listed as follows. Additionally, copies of the proposed AO can be found online by using either the Chief Clerk's eFiling System at https://www.tceq.texas.gov/goto/efilings or the TCEQ Commissioners' Integrated Database at https://www.tceq.texas.gov/goto/cid, and searching either of those databases with the proposed AO's identifying information, such as its docket number. Written comments about an AO should be sent to the enforcement coordinator designated for each AO at the commission's central office at Enforcement Division, MC 128, P.O. Box 13087, Austin, Texas 78711-3087 and must be postmarked by 5:00 p.m. on **September 7, 2026**. Written comments may also be sent to the enforcement coordinator by email to ENFCOMNT@tceq.texas.gov or by facsimile machine at (512) 239-2550. The commission enforcement coordinators are available to discuss the AOs and/or the comment procedure at the listed contact information; however, TWC, §7.075 provides that comments on the AOs shall be submitted to the commission in writing.

(1) COMPANY: Chevron Phillips Chemical Company LP; DOCKET NUMBER: 2022-0735-AIR-E; IDENTIFIER: RN100209857; LOCATION: Port Arthur, Jefferson County; TYPE OF FACILITY: chemical manufacturing plant; PENALTY: $23,750; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET: $11,875; ENFORCEMENT COORDINATOR: Raven Daigle, (713) 767-3634; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, REGION 12 - HOUSTON.

(2) COMPANY: City of Alto; DOCKET NUMBER: 2024-1120-MWD-E; IDENTIFIER: RN101721363; LOCATION: Alto, Cherokee County; TYPE OF FACILITY: wastewater treatment facility; PENALTY: $80,937; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET: $80,937; ENFORCEMENT COORDINATOR: Kadrienn Woodard, (713) 767-3602; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, REGION 12 - HOUSTON.

(3) COMPANY: City of Austwell; DOCKET NUMBER: 2026-0261-MWD-E; IDENTIFIER: RN101608347; LOCATION: Austwell, Refugio County; TYPE OF FACILITY: wastewater treatment facility; PENALTY: $9,150; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET: $7,320; ENFORCEMENT COORDINATOR: Madison Crawford, (512) 239-4603; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(4) COMPANY: City of Huntsville; DOCKET NUMBER: 2024-1715-MWD-E; IDENTIFIER: RN101612471; LOCATION: Huntsville, Walker County; TYPE OF FACILITY: wastewater treatment facility; PENALTY: $24,000; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET: $19,200; ENFORCEMENT COORDINATOR: Samantha Smith, (512) 239-2099; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, REGION 12 - HOUSTON.

(5) COMPANY: City of Kilgore; DOCKET NUMBER: 2022-1681-MWD-E; IDENTIFIER: RN102079985; LOCATION: Kilgore, Gregg County; TYPE OF FACILITY: wastewater collection system; PENALTY: $75,025; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET: $75,025; ENFORCEMENT COORDINATOR: Cheryl Thompson, (817) 588-5865; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, REGION 4 - DALLAS-FORT WORTH.

(6) COMPANY: City of Runaway Bay; DOCKET NUMBER: 2023-0364-PWS-E; IDENTIFIER: RN101391431; LOCATION: Runaway Bay, Wise County; TYPE OF FACILITY: public water supply; PENALTY: $1,227; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET: $982; ENFORCEMENT COORDINATOR: Cheryl Thompson, (817) 588-5865; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, REGION 4 - DALLAS-FORT WORTH.

(7) COMPANY: City of Tolar; DOCKET NUMBER: 2025-0070-MWD-E; IDENTIFIER: RN101608552; LOCATION: Tolar, Hood County; TYPE OF FACILITY: wastewater treatment facility; PENALTY: $68,687; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET: $68,687; ENFORCEMENT COORDINATOR: Samantha Smith, (512) 239-2099; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, REGION 12 - HOUSTON.

(8) COMPANY: City of Van Alstyne; DOCKET NUMBER: 2024-1504-MWD-E; IDENTIFIER: RN102844123; LOCATION: Van Alstyne, Grayson County; TYPE OF FACILITY: wastewater treatment facility; PENALTY: $249,687; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET: $249,687; ENFORCEMENT COORDINATOR: Kadrienn Woodard, (713) 767-3602; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, REGION 12 - HOUSTON.

(9) COMPANY: City of Wortham; DOCKET NUMBER: 2025-0006-MWD-E; IDENTIFIER: RN102844362; LOCATION: Wortham, Freestone County; TYPE OF FACILITY: wastewater treatment facility; PENALTY: $24,500; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET: $19,600; ENFORCEMENT COORDINATOR: Samantha Smith, (512) 239-2099; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, REGION 12 - HOUSTON.

(10) COMPANY: Croell, Inc.; DOCKET NUMBER: 2026-0328-WQ-E; IDENTIFIER: RN112375431; LOCATION: Clyde, Callahan County; TYPE OF FACILITY: ready-mix concrete plant; PENALTY: $3,750; ENFORCEMENT COORDINATOR: Adriana Fuentes, (956) 425-6010; REGIONAL OFFICE: 1804 West Jefferson Avenue, Harlingen, Texas 78550-5247, REGION 15 - HARLINGEN.

(11) COMPANY: Equistar Chemicals, LP; DOCKET NUMBER: 2026-0572-AIR-E; IDENTIFIER: RN100542281; LOCATION: Channelview, Harris County; TYPE OF FACILITY: petrochemical manufacturing plant; PENALTY: $13,125; ENFORCEMENT COORDINATOR: Krystina Sepulveda, (956) 430-6045; REGIONAL OFFICE: 1804 West Jefferson Avenue, Harlingen, Texas 78550-5247, REGION 15 - HARLINGEN.

(12) COMPANY: FISH POND INVESTMENTS LLC; DOCKET NUMBER: 2025-0977-MWD-E; IDENTIFIER: RN101512291; LOCATION: Willis, Montgomery County; TYPE OF FACILITY: wastewater treatment facility; PENALTY: $17,250; ENFORCEMENT COORDINATOR: Samantha Smith, (512) 239-2099; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, REGION 12 - HOUSTON.

(13) COMPANY: Formosa Plastics Corporation, Texas; DOCKET NUMBER: 2024-0436-AIR-E; IDENTIFIER: RN100218973; LOCATION: Point Comfort, Calhoun County; TYPE OF FACILITY: chemical manufacturing plant; PENALTY: $39,375; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET: $19,687; ENFORCEMENT COORDINATOR: Raven Daigle, (713) 767-3634; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, REGION 12 - HOUSTON.

(14) COMPANY: GRBK Edgewood LLC; DOCKET NUMBER: 2025-1930-MLM-E; IDENTIFIER: RN112271689; LOCATION:

Celina, Collin County; TYPE OF FACILITY: construction site; PENALTY: $5,459; ENFORCEMENT COORDINATOR: Monica Larina, (512) 239-2545; REGIONAL OFFICE: 500 North Shoreline Boulevard, Suite 500, Corpus Christi, Texas 78401, REGION 14 - CORPUS CHRISTI.

(15) COMPANY: Gasfusion, Inc.; DOCKET NUMBER: 2024-1034-PST-E; IDENTIFIER: RN101832947; LOCATION: Laredo, Webb County; TYPE OF FACILITY: convenience store with retail sales of gasoline; PENALTY: $5,022; ENFORCEMENT COORDINATOR: Penny Wimberly, (512) 239-0538; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(16) COMPANY: Gasfusion, Inc.; DOCKET NUMBER: 2024-1036-PST-E; IDENTIFIER: RN102868437; LOCATION: Tilden, McMullen County; TYPE OF FACILITY: convenience store with retail sales of gasoline; PENALTY: $4,701; ENFORCEMENT COORDINATOR: Penny Wimberly, (512) 239-0538; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(17) COMPANY: Gulf Coast Growth Ventures LLC; DOCKET NUMBER: 2022-0654-AIR-E; IDENTIFIER: RN109753731; LOCATION: San Patricio, San Patricio County; TYPE OF FACILITY: plastics manufacturing plant; PENALTY: $37,001; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET: $14,800; ENFORCEMENT COORDINATOR: Raven Daigle, (713) 767-3634; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, REGION 12 - HOUSTON.

(18) COMPANY: Harris County Water Control and Improvement District No. 119; DOCKET NUMBER: 2024-0193-MWD-E; IDENTIFIER: RN102180577; LOCATION: Spring, Harris County; TYPE OF FACILITY: wastewater treatment facility; PENALTY: $11,812; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET: $9,450; ENFORCEMENT COORDINATOR: Casey Cobb, (512) 239-0351; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(19) COMPANY: JCL L4 Construction LLC; DOCKET NUMBER: 2026-0232-WR-E; IDENTIFIER: RN112355573; LOCATION: Dodd City, Fannin County; TYPE OF FACILITY: construction site; PENALTY: $750; ENFORCEMENT COORDINATOR: Adriana Fuentes, (956) 425-6010; REGIONAL OFFICE: 1804 West Jefferson Avenue, Harlingen, Texas 78550-5247, REGION 15 - HARLINGEN.

(20) COMPANY: McMullen County; DOCKET NUMBER: 2025-1811-MWD-E; IDENTIFIER: RN101919611; LOCATION: Tilden, McMullen County; TYPE OF FACILITY: wastewater treatment facility; PENALTY: $12,900; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET: $10,320; ENFORCEMENT COORDINATOR: Samantha Smith, (512) 239-2099; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, REGION 12 - HOUSTON.

(21) COMPANY: Mustang Special Utility District; DOCKET NUMBER: 2024-1859-MWD-E; IDENTIFIER: RN105115125; LOCATION: Gunter, Grayson County; TYPE OF FACILITY: wastewater treatment facility; PENALTY: $63,750; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET: $63,750; ENFORCEMENT COORDINATOR: Samantha Smith, (512) 239-2099; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, REGION 12 - HOUSTON.

(22) COMPANY: Rangers Baseball LLC; DOCKET NUMBER: 2025-0760-PST-E; IDENTIFIER: RN104217831; LOCATION: Arlington, Tarrant County; TYPE OF FACILITY: non-retail fleet refueling facility; PENALTY: $11,687; ENFORCEMENT COORDINATOR: Ramyia Wendt, (512) 239-2513; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(23) COMPANY: Shore-Tech, Inc.; DOCKET NUMBER: 2026-0663-PWS-E; IDENTIFIER: RN102685351; LOCATION: Santa Fe, Galveston County; TYPE OF FACILITY: public water supply; PENALTY: $2,000; ENFORCEMENT COORDINATOR: Wyatt Throm, (512) 239-1120; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(24) COMPANY: Smyrna Ready Mix Concrete, LLC; DOCKET NUMBER: 2026-0407-AIR-E; IDENTIFIER: RN112312582; LOCATION: Leander, Williamson County; TYPE OF FACILITY: concrete batch plant; PENALTY: $3,750; ENFORCEMENT COORDINATOR: John Burkett, (512) 239-4169; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, REGION 12 - HOUSTON.

(25) COMPANY: Texas Circle Fuel Management LLC; DOCKET NUMBER: 2025-0934-PST-E; IDENTIFIER: RN107096224; LOCATION: Houston, Harris County; TYPE OF FACILITY: convenience store with retail sales of gasoline; PENALTY: $30,557; ENFORCEMENT COORDINATOR: Bryce Huck, (512) 239-4655; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(26) COMPANY: Texas Enterprises, Inc.; DOCKET NUMBER: 2026-0034-PST-E; IDENTIFIER: RN100530716; LOCATION: Castroville, Medina County; TYPE OF FACILITY: common carrier; PENALTY: $5,662; ENFORCEMENT COORDINATOR: Bryce Huck, (512) 239-4655; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(27) COMPANY: Texas Water Utilities, L.P.; DOCKET NUMBER: 2025-1776-MWD-E; IDENTIFIER: RN108922360; LOCATION: Plum Grove, Harris County; TYPE OF FACILITY: wastewater treatment facility; PENALTY: $42,187; ENFORCEMENT COORDINATOR: Samantha Smith, (512) 239-2099; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, REGION 12 - HOUSTON.

(28) COMPANY: Town of Pantego; DOCKET NUMBER: 2026-0538-WQ-E; IDENTIFIER: RN105591994; LOCATION: Pantego, Tarrant County; TYPE OF FACILITY: municipal separate storm sewer system; PENALTY: $11,250; ENFORCEMENT COORDINATOR: Harley Hobson, (512) 239-1337; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(29) COMPANY: Whitharral Water and Sewer Service Supply Corporation; DOCKET NUMBER: 2021-1129-MLM-E; IDENTIFIER: RN101453066; LOCATION: Whitharral, Hockley County; TYPE OF FACILITY: public water supply; PENALTY: $15,525; ENFORCEMENT COORDINATOR: Kadrienn Woodard, (713) 767-3602; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, REGION 12 - HOUSTON.

(30) COMPANY: William Marsh Rice University; DOCKET NUMBER: 2026-0541-AIR-E; IDENTIFIER: RN100245968; LOCATION: Houston, Harris County; TYPE OF FACILITY: electricity and steam production plant; PENALTY: $3,250; ENFORCEMENT COORDINATOR: Jonathan Hawkins, (512) 239-4662; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, REGION 11 - AUSTIN.

(31) COMPANY: XTO Energy Inc.; DOCKET NUMBER: 2022-1566-AIR-E; IDENTIFIER: RN100210434; LOCATION: Hawkins, Wood County; TYPE OF FACILITY: gas treatment facility; PENALTY: $4,880; ENFORCEMENT COORDINATOR: Jennifer

Graves, (956) 430-6023; REGIONAL OFFICE: 1804 West Jefferson Avenue, Harlingen, Texas 78550-5247, REGION 15 - HARLINGEN.

TRD-202603200
Gitanjali Yadav
Deputy Director, Litigation Division
Texas Commission on Environmental Quality
Filed: July 28, 2026

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## Enforcement Orders

An agreed order was adopted regarding United Dirt Contractors, Inc., Docket No. 2022-0870-AIR-E on July 28, 2026 assessing $4,500 in administrative penalties with $900 deferred. Information concerning any aspect of this order may be obtained by contacting Yuliya Dunaway, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding the City of Annona, Docket No. 2022-1172-MWD-E on July 28, 2026 assessing $10,200 in administrative penalties with $2,040 deferred. Information concerning any aspect of this order may be obtained by contacting Monica Larina, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding the City of Jewett, Docket No. 2022-1519-MWD-E on July 28, 2026 assessing $10,875 in administrative penalties with $2,175 deferred. Information concerning any aspect of this order may be obtained by contacting Casey Cobb, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding James Stanley, Docket No. 2024-0521-MSW-E on July 28, 2026 assessing $3,937 in administrative penalties with $787 deferred. Information concerning any aspect of this order may be obtained by contacting Eresha DeSilva, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding MRIDHA ENTERPRISES INC. dba Latienda Food Mart, Docket No. 2024-1891-PST-E on July 28, 2026 assessing $8,118 in administrative penalties with $1,623 deferred. Information concerning any aspect of this order may be obtained by contacting Celicia Garza, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

Afield citation was adopted regarding Pilot Thomas Logistics LLC, Docket No. 2025-0041-PST-E on July 28, 2026 assessing $2,625 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Rachel Murray, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Targa Pipeline Mid Continent WestTex LLC, Docket No. 2025-0140-AIR-E on July 28, 2026 assessing $11,250 in administrative penalties with $2,250 deferred. Information concerning any aspect of this order may be obtained by contacting Cheryl Thompson, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding DCP Operating Company, LP, Docket No. 2025-0161-AIR-E on July 28, 2026 assessing $6,438 in administrative penalties with $1,287 deferred. Information concerning any aspect of this order may be obtained by contacting Katie Phillips, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding the Town of Woodloch, Docket No. 2025-0177-MWD-E on July 28, 2026 assessing $11,375 in administrative penalties with $2,275 deferred. Information concerning any aspect of this order may be obtained by contacting Madison Crawford, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Endeavor Energy Resources, L.P., Docket No. 2025-0218-AIR-E on July 28, 2026 assessing $3,538 in administrative penalties with $707 deferred. Information concerning any aspect of this order may be obtained by contacting Rajesh Acharya, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding David Isidro dba David Customs Body Shop & Paint, Docket No. 2025-0308-AIR-E on July 28, 2026 assessing $4,951 in administrative penalties with $1,237 deferred. Information concerning any aspect of this order may be obtained by contacting Casey Cobb, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Concrete on Demand, LLC, Docket No. 2025-0314-AIR-E on July 28, 2026 assessing $12,000 in administrative penalties with $2,400 deferred. Information concerning any aspect of this order may be obtained by contacting Katie Phillips, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding NST Enterprises Inc dba On the Road 101, Docket No. 2025-0321-PST-E on July 28, 2026 assessing $5,782 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Jennifer Peltier, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Cummings Investment Properties, LLC, Docket No. 2025-0477-WQ-E on July 28, 2026 assessing $12,375 in administrative penalties with $2,475 deferred. Information concerning any aspect of this order may be obtained by contacting Kadrienn Woodard, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding HILL STONE COMPANY and Aaron Brothers Executor of the Estate of William Slade Sullivan, Docket No. 2025-0626-MLM-E on July 28, 2026 assessing $9,375 in administrative penalties with $1,875 deferred. Information concerning any aspect of this order may be obtained by contacting Adriana Fuentes, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Smyrna Ready Mix Concrete, LLC, Docket No. 2025-0665-AIR-E on July 28, 2026 assessing $9,000 in administrative penalties with $1,800 deferred. Information concerning any aspect of this order may be obtained by contacting Katie Phillips, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding MCCORMICK MARKETING, INC. dba Farmers Cooperative Society 1 of Jayton, Texas, Docket No. 2025-1630-PST-E on July 28, 2026 assessing $10,001 in administrative penalties with $2,000 deferred. Information concerning any aspect of this order may be obtained by contacting Ramyia Wendt, En-

forcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Farmers Cooperative Elevator Association of Levelland, Texas dba Liberty Cooperative Gin, Docket No. 2025-1831-PST-E on July 28, 2026 assessing $3,250 in administrative penalties with $650 deferred. Information concerning any aspect of this order may be obtained by contacting Bryce Huck, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Stockon 5 Construction, L.L.C., Docket No. 2025-1875-WQ-E on July 28, 2026 assessing $7,000 in administrative penalties with $1,400 deferred. Information concerning any aspect of this order may be obtained by contacting Alejandra Basave, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding LONNIE LISCHKA COMPANY, L.P., Docket No. 2025-1884-WQ-E on July 28, 2026 assessing $1,800 in administrative penalties with $360 deferred. Information concerning any aspect of this order may be obtained by contacting Adriana Fuentes, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Chevron U.S.A. Inc., Docket No. 2025-1921-AIR-E on July 28, 2026 assessing $4,876 in administrative penalties with $975 deferred. Information concerning any aspect of this order may be obtained by contacting Rajesh Acharya, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Adolfo Uresti, Docket No. 2026-0063-MLM-E on July 28, 2026 assessing $8,563 in administrative penalties with $1,712 deferred. Information concerning any aspect of this order may be obtained by contacting Ramyia Wendt, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Aqua Texas, Inc., Docket No. 2026-0067-PWS-E on July 28, 2026 assessing $2,000 in administrative penalties with $400 deferred. Information concerning any aspect of this order may be obtained by contacting Anjali Talpallikar, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Craig Horn, Docket No. 2026-0135-WR-E on July 28, 2026 assessing $500 in administrative penalties with $100 deferred. Information concerning any aspect of this order may be obtained by contacting Alejandra Basave, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Devon Energy Production Company, L.P., Docket No. 2026-0150-AIR-E on July 28, 2026 assessing $4,063 in administrative penalties with $812 deferred. Information concerning any aspect of this order may be obtained by contacting Krystina Sepulveda, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Veolia WTS USA, Inc., Docket No. 2026-0206-AIR-E on July 28, 2026 assessing $2,813 in administrative penalties with $562 deferred. Information concerning any aspect of this order may be obtained by contacting Michael Wilkins, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding OXY USA Inc., Docket No. 2026-0215-AIR-E on July 28, 2026 assessing $6,626 in administrative penalties with $1,325 deferred. Information concerning any aspect of this order may be obtained by contacting Morgan Kopcho, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Ron Huffman, Docket No. 2026-0233-WOC-E on July 28, 2026 assessing $1,687 in administrative penalties with $337 deferred. Information concerning any aspect of this order may be obtained by contacting Hilda Iyasele, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Cade Lakes Water Supply Corporation, Docket No. 2026-0242-PWS-E on July 28, 2026 assessing $945 in administrative penalties with $189 deferred. Information concerning any aspect of this order may be obtained by contacting Katherine Argueta, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Harris County Water Control and Improvement District 110, Docket No. 2026-0401-PWS-E on July 28, 2026 assessing $50 in administrative penalties with $10 deferred. Information concerning any aspect of this order may be obtained by contacting Corinna Willis, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An expedited compliance order was adopted regarding La Chuparosa, LLC, Docket No. 2026-0511-WR-E on July 28, 2026 assessing $250 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Alejandra Basave, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-202603216
Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: July 29, 2026

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## Notice of an Application for a Water Use Permit 13830

Notices Issued July 21, 2026

The Cole Ranch Company, L.P. and Cole Ranch Improvement District No. 1 of Denton County, P.O. Drawer S, Denton, Texas 76202-1747, seek authorization to maintain two reservoirs on unnamed tributaries of Hickory Creek, Trinity River Basin, impounding a total of 151 acre-feet of water for recreational purposes in Denton County. Applicants also seek authorization to use the bed and banks of two unnamed tributaries of Hickory Creek to convey 839 acre-feet of groundwater per year for storage in the reservoirs and for subsequent diversion and use for recreational and agricultural purposes in Denton County. More information on the application and how to participate in the permitting process is given below.

The application and fees were received on March 17, 2022. Additional information was received on March 23, May 24, and July 20, 2022. The application was declared administratively complete and accepted for filing with the Office of the Chief Clerk on August 8, 2022. Additional information was received on July 31, 2023, October 30, 2024, and November 12, 2025.

The Executive Director has completed the technical review of the application and prepared a draft permit. The draft permit, if granted, would include special conditions, including, but not limited to, measures to reduce impacts to aquatic resources due to impingement and entrainment and installation of a measuring device. The application, technical memoranda, and Executive Director's draft permit are available for viewing on the TCEQ webpage at: https://www.tceq.texas.gov/permitting/water_rights/wr-permitting/view-wr-pend-apps.

Alternatively, you may request a copy of the documents by contacting the TCEQ Office of the Chief Clerk by phone at (512) 239-3300 or by mail at TCEQ OCC, Notice Team (MC-105), P.O. Box 13087, Austin, Texas 78711.

Written public comments and requests for a public meeting should be submitted to the Office of the Chief Clerk, at the address provided in the information section below, within 30 days of the date of newspaper publication of the notice. A public meeting is intended for the taking of public comment and is not a contested case hearing. A public meeting will be held if the Executive Director determines that there is a significant degree of public interest in the application.

The TCEQ may grant a contested case hearing on this application if a written hearing request is filed within 30 days from the date of newspaper publication of this notice. The Executive Director may approve the application unless a written request for a contested case hearing is filed within 30 days after newspaper publication of this notice.

To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) applicant's name and permit number; (3) the statement "[*I/we*] request a contested case hearing;" (4) a brief and specific description of how you would be affected by the application in a way not common to the general public; and (5) the location and distance of your property relative to the proposed activity. You may also submit proposed conditions for the requested amendment which would satisfy your concerns. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below.

If a hearing request is filed, the Executive Director will not issue the amendment and will forward the application and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

Written hearing requests, public comments, or requests for a public meeting should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087 or electronically at https://www14.tceq.texas.gov/epic/eComment/ by entering WRPERM 13830 in the search field. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Public Education Program at (800) 687-4040. General information regarding the TCEQ can be found at our website at www.tceq.texas.gov. Si desea información en español, puede llamar al (800) 687-4040 o por el internet al http://www.tceq.texas.gov.

TRD-202603199
Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: July 28, 2026

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## Notice of Application and Opportunity to Request a Public Meeting for a New Municipal Solid Waste Facility Proposed Registration No. 40350

Application. Toss It Waste, LLC has applied to the Texas Commission on Environmental Quality (TCEQ) for a registration for a Type V municipal solid waste transfer station. The proposed facility, Toss It - Burnet Transfer Station, will be located approximately at 1.7 mile east of Burnet, on the north side of HWY 29 and east of the Windy Hills road intersection, in Burnet County, Texas. The applicant is requesting authorization to transfer municipal solid waste that includes municipal solid waste, construction and demolition waste, and brush and rubbish. The registration application is available for viewing and copying at the Herman Brown Free Library, 100 E Washington St., Burnet, Texas 78611. The application, including updates, is also available electronically at the following webpage: www.tceq.texas.gov/goto/wasteapps. The following link to an electronic map of the general location of the site or facility is provided as a public courtesy and is not part of the application or notice: https://arcg.is/05WbHz2. For the exact location, refer to the application.

Alternative Language Notice / Aviso en idioma alternativo. Alternative language notice in Spanish is available at www.tceq.texas.gov/goto/wasteapps. El aviso en idioma alternativo en español está disponible en www.tceq.texas.gov/goto/wasteapps.

Public Comment / Public Meeting. You may submit public comments or request a public meeting on this application. The purpose of a public meeting is to provide the opportunity to submit comments or to ask questions about the application. TCEQ holds a public meeting if the Executive Director determines that there is a significant degree of public interest in the application or if requested by a local legislator. A public meeting is not a contested case hearing. The Executive Director will review and consider all timely comments and requests for a public meeting submitted during the comment period. The comment period will end 30 calendar days after this notice is published unless a public meeting is scheduled, in which case it will be extended to the date and time the public meeting closes. The Executive Director is not required to file a response to comments.

Executive Director Action. The Executive Director will review the application and issue a decision. If the Executive Director acts on an application, the Chief Clerk will mail or otherwise transmit notice of the action and an explanation of the opportunity to file a motion to overturn the Executive Director's decision.

Mailing List. If you submit public comments, you will be added to the mailing list for this application to receive future public notices mailed by the Office of the Chief Clerk. In addition, you may request to be placed on: (1) the permanent mailing list for a specific applicant name and permit number; and/or (2) the mailing list for a specific county. To be placed on the permanent and/or the county mailing list, clearly specify which list(s), and send your request to TCEQ Office of the Chief Clerk at the address below.

Information Available Online. For details about the status of the application, visit the Commissioners' Integrated Database (CID) at www.tceq.texas.gov/goto/cid. Once you have access to the CID using the above link, enter the registration number for this application, which is provided at the top of this notice.

Agency Contacts and Information. All public comments and requests must be submitted either electronically at **www14.tceq.texas.gov/epic/eComment/** or in writing to the Texas Commission on Environmental Quality, Office of the Chief Clerk, MC-105, P.O. Box 13087, Austin, Texas 78711-3087. Please be aware that any contact information you provide, including your name, phone

number, email address, and physical address, will become part of the agency's public record.

For questions about the permitting process, please visit https://www.tceq.texas.gov/agency/decisions/participation/permitting-participation or contact the TCEQ's Public Education Program by email at pep@tceq.texas.gov or by phone, toll free, at (800) 687-4040. Para información en español, favor de llamar al (800)-687-4040.

For More Information. Further information may also be obtained by writing to the applicant's representative at Mr. Justin Moody, Toss It Waste, LLC, 1107 CR 264 Bertram, Texas 78605 or by calling (512) 790-8567.

Issued Date: July 22, 2026

TRD-202603210
Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: July 29, 2026

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## Notice of District Petition - D-07062026-017

Notice issued July 29, 2026

TCEQ Internal Control No. D-07062026-017: 155 Fannin Investments, LLC and Fannin County Land Investments, LLC (Petitioners) filed a petition for creation of SW Fannin County Municipal Utility District No. 1 (District) with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, §59 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The petition states that: (1) the Petitioners hold a majority in value of the land to be included in the proposed District; (2) there is one lienholder, Vantage Bank Texas, on the property to be included in the proposed District and information provided indicates that the lienholder consented to the creation of the proposed District; (3) the proposed District will contain approximately 373.73 acres located within Fannin County, Texas; and (4) the District is entirely outside the corporate limits or extraterritorial jurisdiction of any city or town. The petition further states that the proposed District will: (1) purchase, construct, acquire, improve and extend inside or outside of its boundaries any and all works, improvements, facilities, plants, equipment and appliances necessary or helpful to supply and distribute water for municipal, domestic and commercial purposes; (2) collect, transport, process, dispose of and control domestic, and commercial wastes; (3) gather, conduct, divert, control, abate, and amend local storm waters or other harmful excesses of waters; (4) design, acquire, construct, finance, improve, operate, and maintain macadamized, graveled, or paved roads and turnpikes, or improvement in aid of those roads; (5) purchase, construct, acquire, improve, extend inside or outside its boundaries additional facilities, systems, plants, and enterprises, as shall be consistent with all of the purposes for which the proposed District is created. Additionally, it is further proposed that the proposed District be granted road powers pursuant to Texas Water Code, Section 54.234. According to the petition, a preliminary investigation has been made to determine the cost of the project, and it is estimated by the Petitioners that the cost of said project will be approximately $34,150,000 ($22,950,000 for water, wastewater and drainage and $11,200,000 for roads).

INFORMATION SECTION

To view the complete issued notice, view the notice on our website at www.tceq.texas.gov/agency/cc/pub_notice.html or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the website, type in the issued date range shown at the top of this document to obtain search results. The TCEQ may grant a contested case hearing on the petition if a written hearing request is filed within 30 days after the newspaper publication of the notice. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the Petitioner and the TCEQ Internal Control Number; (3) the statement "I/we request a contested case hearing"; (4) a brief description of how you would be affected by the petition in a way not common to the general public; and (5) the location of your property relative to the proposed District's boundaries. You may also submit your proposed adjustments to the petition. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below. The Executive Director may approve the petition unless a written request for a contested case hearing is filed within 30 days after the newspaper publication of this notice. If a hearing request is filed, the Executive Director will not approve the petition and will forward the petition and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court. Written hearing requests should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Districts Review Team, at (512) 239-4691. Si desea información en español, puede llamar al (512) 239-0200. General information regarding TCEQ can be found at our website at www.tceq.texas.gov.

TRD-202603217
Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: July 29, 2026

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## Notice of Opportunity to Comment on Agreed Orders of Administrative Enforcement Actions

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) in accordance with Texas Water Code (TWC), §7.075. TWC, §7.075, requires that before the commission may approve the AOs, the commission shall allow the public an opportunity to submit written comments on the proposed AOs. TWC, §7.075, requires that notice of the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **September 7, 2026**. TWC, §7.075, also requires that the commission promptly consider any written comments received and that the commission may withdraw or withhold approval of an AO if a comment discloses facts or considerations that indicate that consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed AO is not required to be published if those changes are made in response to written comments.

A physical copy of the proposed AO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building A, 3rd Floor, Austin, Texas 78753, (512) 239-3400 and at the applicable regional office listed as follows. Additionally, copies of the proposed AO can be

found online by using either the Chief Clerk's eFiling System at https://www.tceq.texas.gov/goto/efilings or the TCEQ Commissioners' Integrated Database at https://www.tceq.texas.gov/goto/cid, and searching either of those databases with the proposed AO's identifying information, such as its docket number. Written comments about an AO should be sent to the attorney designated for the AO at the commission's central office at P.O. Box 13087, MC 175, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on September 7, 2026**. The designated attorneys are available to discuss the AOs and/or the comment procedure at the listed phone numbers; however, TWC, §7.075, provides that comments on an AO shall be submitted to the commission in **writing**.

(1) COMPANY: City of Itasca; DOCKET NUMBER: 2023-0027-MWD-E; TCEQ ID NUMBER: RN101920270; LOCATION: 904 South Hill Street, Itasca, Hill County; TYPE OF FACILITY: a wastewater treatment facility; PENALTY: $10,500; STAFF ATTORNEY: Tracy Chandler, Litigation, MC 175, (512) 239-0629; REGIONAL OFFICE: Waco Regional Office, 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(2) COMPANY: Rahim Momin; DOCKET NUMBER: 2023-1027-PST-E; TCEQ ID NUMBER: RN102080744; LOCATION: 10000 Highway 59 South, Shepherd, San Jacinto County; TYPE OF FACILITY: an underground storage tank system; PENALTY: $2,550; STAFF ATTORNEY: William Hogan, Litigation, MC 175, (512) 239-5918; REGIONAL OFFICE: Beaumont Regional Office, 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

TRD-202603203
Gitanjali Yadav
Deputy Director, Litigation Division
Texas Commission on Environmental Quality
Filed: July 28, 2026

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## Notice of Public Meeting Renewal Permit No. WQ0015664002

**APPLICATION**. Louis A. Tsakiris Family Partnership, Ltd, 2310 Baker Road, Houston, Texas 77094, has applied to the Texas Commission on Environmental Quality (TCEQ) for a renewal of Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0015664002 which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 250,000 gallons per day. TCEQ received this application on May 13, 2025.

The facility is located approximately 4,200 feet east of the intersection of Hackberry Road and Interstate Highway 35, in Bell County, Texas 76571. The treated effluent will be discharged to a roadside ditch, thence to South Darrs Creek, thence to Little River in Segment No. 1213 of the Brazos River Basin. The unclassified receiving water uses are minimal aquatic life use for the roadside ditch and limited aquatic life use for South Darrs Creek. The designated uses for Segment No. 1213 are primary contact recreation, public water supply, and high aquatic life use. All determinations are preliminary and subject to additional review and/or revisions. This link to an electronic map of the site or facility's general location is provided as a public courtesy and is not part of the application or notice. For the exact location, refer to the application. https://gisweb.tceq.texas.gov/LocationMapper/?marker=-97.558888,30.887222&level=18

The TCEQ Executive Director has completed the technical review of the application and prepared a draft permit. The draft permit, if approved, would establish the conditions under which the facility must operate. The Executive Director has made a preliminary decision that this permit, if issued, meets all statutory and regulatory requirements.

**ALTERNATIVE LANGUAGE NOTICE.** Alternative language notice in Spanish is available at https://www.tceq.texas.gov/permitting/wastewater/plain-language-summaries-and-public-notices. El aviso de idioma alternativo en español está disponible en https://www.tceq.texas.gov/permitting/wastewater/plain-language-summaries-and-public-notices.

**PUBLIC COMMENT / PUBLIC MEETING.** A public meeting will be held and will consist of two parts, an Informal Discussion Period and a Formal Comment Period. A public meeting is not a contested case hearing under the Administrative Procedure Act. During the Informal Discussion Period, the public will be encouraged to ask questions of the applicant and TCEQ staff concerning the permit application. The comments and questions submitted orally during the Informal Discussion Period will not be considered before a decision is reached on the permit application and no formal response will be made. Responses will be provided orally during the Informal Discussion Period. During the Formal Comment Period on the permit application, members of the public may state their formal comments orally into the official record. A written response to all timely, relevant and material, or significant comments will be prepared by the Executive Director. All formal comments will be considered before a decision is reached on the permit application. A copy of the written response will be sent to each person who submits a formal comment or who requested to be on the mailing list for this permit application and provides a mailing address. Only relevant and material issues raised during the Formal Comment Period can be considered if a contested case hearing is granted on this permit application.

**The Public Meeting is to be held:**

**Monday, September 14, 2026 at 7:00 p.m.**

**Salado Middle School (Cafeteria)**

**1169 Williams Road**

**Salado, Texas 76571**

**INFORMATION**. Members of the public are encouraged to submit written comments anytime during the meeting or by mail before the close of the public comment period to the Office of the Chief Clerk, TCEQ, Mail Code MC-105, P.O. Box 13087, Austin, Texas 78711-3087 or electronically at www.tceq.texas.gov/goto/comment. If you need more information about the permit application or the permitting process, please call the TCEQ Public Education Program, Toll Free, at (800) 687-4040. *Si desea información en español, puede llamar (800) 687-4040.* General information about the TCEQ can be found at our website at https://www.tceq.texas.gov.

The permit application, Executive Director's preliminary decision, and draft permit are available for viewing and copying at Salado Public Library, 1151 North Main Street, Salado, Texas. The application and associated notices are available electronically at the following webpage: https://www.tceq.texas.gov/permitting/wastewater/pending-permits/tpdes-applications.

Further information may also be obtained from Louis A. Tsakiris Family Partnership, Ltd. at the address stated above or by calling Mr. Jerry Ince, Ward, Getz & Associates LLC, at (832) 344-6604.

Persons with disabilities who need special accommodations at the meeting should call the Office of the Chief Clerk at (512) 239-3300 or (800) RELAY-TX (TDD) at least five business days prior to the meeting.

Issuance Date: July 29, 2026

TRD-202603207

Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: July 29, 2026

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Update to the Water Quality Management Plan (WQMP)

The Texas Commission on Environmental Quality (TCEQ or commission) requests comments from the public on the draft July 2026 Update to the WQMP for the State of Texas.

Download the draft July 2026 WQMP Update at *https://www.tceq.texas.gov/permitting/wqmp/WQmanagement_updates.html* or view a printed copy at the TCEQ Library, Building A, 12100 Park 35 Circle, Austin, Texas.

The WQMP is developed and promulgated in accordance with the requirements of the federal Clean Water Act, Section 208. The draft update includes projected effluent limits of specific treated domestic wastewater dischargers, which may be useful for planning in future permit actions. The draft update may also contain service area populations for listed wastewater treatment facilities, designated management agency information, and total maximum daily load (TMDL) revisions.

Once the commission certifies a WQMP update, it is submitted to the United States Environmental Protection Agency (EPA) for approval. For some Texas Pollutant Discharge Elimination System (TPDES) permits, the EPA's approval of a corresponding WQMP update is a necessary precondition to TPDES permit issuance by the commission.

**Deadline**

All comments must be received at the TCEQ no later than **5:00 p.m. on September 7, 2026.**

**How to Submit Comments**

Comments must be submitted in writing to:

Gregg Easley

Texas Commission on Environmental Quality

Water Quality Division, MC 148

P.O. Box 13087

Austin, Texas 78711-3087

Comments may also be faxed to (512) 239-4430 ***or*** emailed to Gregg Easley at *Gregg.Easley@tceq.texas.gov* but must be followed up with written comments by mail within five working days of the fax or email date or by the comment deadline, whichever is sooner.

If you need translation services, please contact TCEQ at (800) 687-4040. Si desea información general en español, puede llamar al (800) 687-4040.

For further information, or questions, please contact Mr. Easley at (512) 239-4539 or by email at *Gregg.Easley@tceq.texas.gov.*

TRD-202603208
Amy L. Browning
Deputy Director, Environmental Law Division
Texas Commission on Environmental Quality
Filed: July 29, 2026

♦ ♦ ♦

# General Land Office

Notice and Opportunity to Comment on Requests for Consistency Agreement/Concurrence Under the Texas Coastal Management Program

On January 10, 1997, the State of Texas received federal approval of the Coastal Management Program (CMP) (62 *Federal Register* pp. 1439 - 1440). Under federal law, federal agency activities and actions affecting the Texas coastal zone must be consistent with the CMP goals and policies identified in 31 TAC Chapter 26. Requests for federal consistency review were deemed administratively complete for the following project(s) during the period of June 25, 2026 to July 24, 2026. As required by federal law, the public is given an opportunity to comment on the consistency of proposed activities in the coastal zone undertaken or authorized by federal agencies. Pursuant to 31 TAC §§30.20(f), 30.30(h), and 30.40(e), the public comment period extends 30 days from the date published on the Texas General Land Office web site. The notice was published on the web site on Friday, July 31, 2026. The public comment period for this project will close at 5:00 p.m. on Sunday, August 30, 2026.

Federal Agency Activities:

**Applicant:** Department of Homeland Security

**Location:** Los Fresnos, Cameron County, Texas.

**Project Description:** The Proposed Action would include the construction of a single-story, prefabricated metal warehouse building measuring 200 x 180 feet. The structure would consist primarily of warehouse storage areas, administrative offices, conference and training rooms, break rooms, as well as various support spaces. The warehouse would be designed and constructed in accordance with applicable Immigration and Customs Enforcement (ICE) Facility Design Standards, Building Code requirements, and federal detention facility design criteria.

The proposed warehouse would be located within an already developed portion of the Port Isabel Detention Center (PIDC) facility that has been subject to extensive past disturbance associated with past detention center operations and previous development activities. Construction would occur within the existing secured detention facility footprint and would not require expansion of detention operations beyond the current facility boundary.

Construction activities would include site preparation, grading, excavation, utility installation, foundation construction, placement of a reinforced concrete slab, erection of the prefabricated metal building, installation of building systems, and associated site improvements. Supporting infrastructure would include new parking areas, sidewalks, stormwater drainage features, landscaping, lighting, and utility connections. The warehouse would be connected to the existing electrical, potable water, sanitary sewer, natural gas, communications, and fire protection infrastructure already serving the PIDC facility. No increase in detainee housing capacity would occur as a result of the proposed action.

The Proposed Action would also include installation of heating, ventilation, and air conditioning

(HVAC) systems, fire suppression and alarm systems, plumbing systems, interior finishes, and security features necessary to support warehouse and administrative functions. Drainage improvements would be incorporated into the site design to maintain existing stormwater conveyance patterns and ensure compliance with applicable federal, state, and local regulations. The contractor would be responsible for obtaining all required building permits and approvals for the Proposed Action.

The proposed warehouse would disturb approximately 0.83 terrestrial acres of the PIDC facility grounds. While full plans of this structure have not been fully developed, the structure, ground disturbance, and layout will be consistent with the ICE typical warehouse plan sheets. The project is not expected to disturb more than one acre of land. The project site would be located approximately 2.1 miles west of Laguna Madre and 10.5 miles west of Texas's gulf coastline on South Padre Island.

**Type of Application:** Department of Homeland Security federal agency activity.

**CMP Project No:** 26-1176-F2

Federal License and Permit Activities:

**Applicant:** Sabine River Authority

**Location:** The project site is located in Cow Bayou, approximately 0.14 miles northeast of the intersection of TX State Highway 73 and Cow Bayou, in Orange, Orange County, Texas.

**Latitude and Longitude:** 30.046545, -93.820353

**Project Description:** The applicant proposes to discharge 1,468 cubic yards (CY) of concrete and earthen fill material into 0.42 acre of palustrine forested wetland and 0.36 acre of palustrine emergent wetland in association with the expansion of a parking lot for the existing boat launch and park. Additionally, the applicant proposes to discharge 50 CY of fill material into 0.009 acre below the High Tide Line of Cow Bayou in association with the construction and backfilling of a 186-linear-foot bulkhead adjacent to the existing boat ramp. The project also includes the installation of a 133.2-square-foot floating dock, a 112-square-foot access gangway, and a 15-inch-diameter outfall into Cow Bayou.

The applicant has stated that they have avoided and minimized environmental impacts to waters of the United States associated with the proposed activity by expanding an existing facility and utilizing best management practices such as silt fencing. The applicant has proposed to purchase wetland mitigation credits from the Golden Triangle Mitigation Bank to offset unavoidable impacts to waters of the United States. The U.S. Army Corps of Engineers will determine the type and amount of compensatory mitigation necessary to offset losses of waters of the United States which may result from the proposed activity in accordance with 33 CFR § 332.

**Type of Application:** U.S. Army Corps of Engineers permit application #SWG-2026-00242. This application will be reviewed pursuant Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899. Note: The consistency review for this project may be conducted by The Texas Commission on Environmental Quality as part of its certification under §401 of the Clean Water Act.

**CMP Project No:** 26-1180-F1

Further information on the applications listed above, including a copy of the consistency certifications or consistency determinations for inspection, may be obtained from the Texas General Land Office Public Information Officer at 1700 N. Congress Avenue, Austin, Texas 78701, or via email at pialegal@glo.texas.gov. Comments should be sent to the Texas General Land Office Coastal Management Program Coordinator at the above address or via email at federal.consistency@glo.texas.gov.

TRD-202603197
Jennifer Jones
Chief Clerk and Deputy Land Commissioner
General Land Office
Filed: July 27, 2026

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## Texas Health and Human Services Commission

### Correction of Error

The Texas Health and Human Services Commission (HHSC) proposed new 26 TAC §505.27 in the July 24, 2026, issue of the *Texas Register* (51 TexReg 4806). Due to an error by the Texas Register, text was omitted from the statutory authority for the new rule. The statutory authority should read as follows:

The new section is authorized by 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 THSC §241.026, which requires HHSC to develop, establish, and enforce standards for the construction, maintenance, and operation of licensed hospitals.

TRD-202603205

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### Public Notice: Texas State Plan for Medical Assistance Amendment

The Texas Health and Human Services Commission (HHSC) announces its intent to submit amendments to the Texas State Plan for Medical Assistance under Title XIX of the Social Security Act. The proposed amendment is effective September 1, 2026.

The purpose of the amendment is to update the payment rates for Prescribed Pediatric Extended Care Centers (PPECC). The HHSC Provider Finance Department (PFD) evaluated the PPECC payment rates as part of the biennial fee review process.

The proposed amendment is estimated to result in an annual aggregate expenditure of $0 for federal fiscal year (FFY) 2026, consisting of $0 in federal funds and $0 in state general revenue. For FFY 2027, the estimated annual aggregate expenditure is $0, consisting of $0 in federal funds and $0 in state general revenue. For FFY 2028, the estimated annual aggregate expenditure is $0, consisting of $0 in federal funds and $0 in state general revenue. There is no fiscal impact associated with the proposed amendment in fee-for-service because PPECC services are provided through Managed Care services under STAR Kids and STAR Health.

Further details on specific reimbursement rate changes are available on the HHSC PFD website under the proposed effective date at http://pfd.hhs.texas.gov/rate-packets.

A rate hearing was held on May 26, 2026, at 9:00 a.m. in Austin, Texas. Information about the proposed rate change and the hearing can be found in the May 8, 2026, issue of the *Texas Register* on page 3170 at http://www.sos.state.tx.us/texreg/index.shtml.

Copy of Proposed Amendment(s). Interested parties may obtain additional information or a free copy of the proposed amendments from Jayasree Sankaran, State Plan Policy Advisor, by mail at the Health and Human Services Commission, P.O. Box 13247, Mail Code H-600, Austin, Texas 78711; by telephone at (512) 487-3349; by facsimile at (512) 730-7472; or by email at Medicaid_Chip_SPA_Inquiries@hhsc.state.tx.us. Once submitted to the Centers for Medicare and Medicaid Services for approval, copies of the proposed amendment will be available for review at the HHSC Access and Eligibility Services for local benefit offices.

Written Comments. Written comments and requests to review comments may be sent by U.S. mail, overnight mail, special delivery mail, hand delivery, fax, or email:

U.S. Mail

Texas Health and Human Services Commission

Attention: Provider Finance, Mail Code H-400

P.O. Box 149030

Austin, Texas 78714-9030

Texas Health and Human Services Commission

Attention: Provider Finance, Mail Code H-400

North Austin Complex

4601 W. Guadalupe St.

Austin, Texas 78751

Phone number for package delivery: (512) 730-7401

Fax

Attention: Provider Finance at (512) 730-7475

Email

PFD-LTSS@hhs.texas.gov

TRD-202603174
Karen Ray
Chief Counsel
Texas Health and Human Services Commission
Filed: July 27, 2026

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### Public Notice - Texas State Plan for Medical Assistance Amendment

The Texas Health and Human Services Commission (HHSC) announces its intent to submit amendments to the Texas State Plan for Medical Assistance, under Title XIX of the Social Security Act. The proposed amendments will be effective September 1, 2026.

The purpose of the amendment is to update the fee schedules in the current state plan by adjusting fees, rates, or charges for Non-Emergency Medical Transportation (NEMT) Services.

The proposed amendment is estimated to result in an increase to annual aggregate expenditure of $2,591 for federal fiscal year (FFY) 2026, consisting of $1,550 in federal funds and $1,041 in state general revenue. For FFY 2027, the estimated result is an increase to annual aggregate expenditure in state of $31,499 consisting of $18,440 in federal funds and $13,059 general revenue. For FFY 2028, the estimated result is an increase to annual aggregate expenditure of $31,921 consisting of $18,833 in federal funds and $13,088 in state general revenue.

Further detail on specific reimbursement rates and percentage changes will be made available on the HHSC Provider Finance website before the proposed effective date at: https://pfd.hhs.texas.gov/rate-packets.

Rate Hearings.

Rate hearings were conducted in person and online on May 26, 2026. Information about the proposed rate changes and hearings were published in the May 1, 2026, issues of the *Texas Register* (51 TexReg 2980-2981). Additional information and the notices of hearings can be found at http://www.sos.state.tx.us/texreg/index.shtml.

Copy of Proposed Amendment.

Interested parties may obtain additional information and/or a free copy of the proposed amendment by contacting Jayasree Sankaran, State Plan Policy Advisor, by mail at the Health and Human Services Commission, P.O. Box 13247, Mail Code H-600, Austin, Texas 78711; by telephone at (512) 487-3349; by facsimile at (512) 730-7472; or by e-mail at Medicaid_Chip_SPA_Inquiries@hhsc.state.tx.us. Once submitted to the Centers for Medicare and Medicaid Services for approval, copies of the proposed amendment will be available for review at the HHSC Access and Eligibility Services for local benefit offices.

Written Comments.

Written comments about the proposed amendment and/or requests to review comments may be sent by U.S. mail, overnight mail, special delivery mail, hand delivery, fax, or email:

U.S. Mail

Texas Health and Human Services Commission

Attention: Provider Finance Department

Mail Code H-400

P.O. Box 149030

Austin, Texas 78714-9030

Overnight mail, special delivery mail, or hand delivery

Texas Health and Human Services Commission

Attention: Provider Finance Department

North Austin Complex

Mail Code H-400

4601 W. Guadalupe St.

Austin, Texas 78751

Phone number for package delivery: (737) 867-7817

Fax

Attention: Provider Finance at (512) 730-7475

Email

PFDAcuteCare@hhs.texas.gov

Preferred Communication.

For quickest response, please use e-mail or phone, if possible, for communication with HHSC related to this state plan amendment.

TRD-202603175
Karen Ray
Chief Counsel, Office of Chief Counsel
Texas Health and Human Services Commission
Filed: July 27, 2026

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## Department of State Health Services

### Correction of Error

The executive commissioner of the Texas Health and Human Services Commission (HHSC), on behalf of the Texas Department of State Health Services (DSHS), proposed amendments to 25 TAC §§13.11, 13.13, 13.18 and 13.19 in the July 24, 2026, issue of the *Texas Register* (51 TexReg 4800). Due to an error by the Texas Register, the statutory authority for the proposal was published incorrectly. The statutory authority should read as follows:

The amendments are authorized by Texas Government Code §524.0151 and Texas Health and Safety Code §1001.075 which provide that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by DSHS and for the

administration of Texas Health and Safety Code Chapter 1001, HSC §105.005, and Acts 2025, 89th Leg., R.S., Ch. 636 (H.B. 3801), Secs. 11(2), 11(3) eff. September 1, 2025.

TRD-202603201

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Licensing Actions for Radioactive Materials

During the second half of June 2026, the Department of State Health Services (Department) has taken actions regarding Licenses for the possession and use of radioactive materials as listed in the tables (in alphabetical order by location). The subheading "Location" indicates the city in which the radioactive material may be possessed and/or used. The location listing "Throughout TX [Texas]" indicates that the radioactive material may be used on a temporary basis at locations throughout the state.

In issuing new licenses and amending and renewing existing licenses, the Department's Radiation Section has determined that the applicant has complied with the licensing requirements in Title 25 Texas Administrative Code (TAC), Chapter 289, for the noted action. In granting termination of licenses, the Department has determined that the licensee has complied with the applicable decommissioning requirements of 25 TAC, Chapter 289. In granting exemptions to the licensing requirements of Chapter 289, the Department has determined that the exemption is not prohibited by law and will not result in a significant risk to public health and safety and the environment.

A person affected by the actions published in this notice may request a hearing within 30 days of the publication date. A "person affected" is defined as a person who demonstrates that the person has suffered or will suffer actual injury or economic damage and, if the person is not a local government, is (a) a resident of a county, or a county adjacent to the county, in which radioactive material is or will be located, or (b) doing business or has a legal interest in land in the county or adjacent county. 25 TAC §289.205(b)(15); Health and Safety Code §401.003(15). Requests must be made in writing and should contain the words "hearing request," the name and address of the person affected by the agency action, the name and license number of the entity that is the subject of the hearing request, a brief statement of how the person is affected by the action what the requestor seeks as the outcome of the hearing, and the name and address of the attorney if the requestor is represented by an attorney. Send hearing requests by mail to: Hearing Request, Radioactive Material Licensing, MC 2835, PO Box 149347, Austin, Texas 78714-9347, or by fax to: (512) 206-3760, or by e-mail to: RAMlicensing@dshs.texas.gov.

| NEW LICENSES ISSUED | | | | | |
|---|---|---|---|---|---|
| Location of Use/Possession of Material | Name of Licensed Entity | License Number | City of Licensed Entity | Amend-ment Number | Date of Action |
| CYPRESS | ANGELINA DIAGNOSTIC RADIOLOGY ASSOCIATES PA | L07320 | CYPRESS | 00 | 06/22/26 |

| NEW LICENSES ISSUED | | | | | |
|---|---|---|---|---|---|
| Location of Use/Possession of Material | Name of Licensed Entity | License Number | City of Licensed Entity | Amend-ment Number | Date of Action |
| THROUGHOUT TX | CORSAIR CONSULTING LLC | L07321 | CEDAR PARK | 00 | 06/25/26 |
| THROUGHOUT TX | SUNDT CONSTRUCTION INC | L07318 | IRVING | 00 | 06/18/26 |
| THROUGHOUT TX | GIR SOLUTIONS MI GROUP LLC | L07319 | TOMBALL | 00 | 06/22/26 |

| AMENDMENTS TO EXISTING LICENSES ISSUED | | | | | |
|---|---|---|---|---|---|
| Location of Use/Possession of Material | Name of Licensed Entity | License Number | City of Licensed Entity | Amend-ment Number | Date of Action |
| ARLINGTON | TEXAS HEALTH ARLINGTON MEMORIAL HOSPITAL | L02217 | ARLINGTON | 133 | 06/23/26 |
| AUSTIN | PHARMALOGIC AUSTIN LLC | L07199 | AUSTIN | 08 | 06/23/26 |
| AUSTIN | WORLDWIDE CLINICAL TRIALS EARLY PHASE SERVICES/BIOANALYTICAL SCIENCES LLC | L04427 | AUSTIN | 26 | 06/20/26 |
| BEAUMONT | BAPTIST HOSPITALS OF SOUTHEAST TEXAS | L00358 | BEAUMONT | 165 | 06/16/26 |
| BISHOP | BASF CORPORATION | L06855 | BISHOP | 22 | 06/30/26 |
| BORGER | WRB REFINING LP | L02480 | BORGER | 78 | 06/22/26 |
| DALLAS | METHODIST HOSPITALS OF DALLAS | L00659 | DALLAS | 160 | 06/18/26 |
| DALLAS | CARDINAL HEALTH 414 LLC DBA CARDINAL NUCLEAR PHARMACY SERVICES | L02048 | DALLAS | 165 | 06/29/26 |

| AMENDMENTS TO EXISTING LICENSES ISSUED | | | | | |
|---|---|---|---|---|---|
| Location of Use/Possession of Material | Name of Licensed Entity | License Number | City of Licensed Entity | Amend-ment Number | Date of Action |
| EDINBURG | DOCTORS HOSPITAL AT RENAISSANCE LTD DBA DHR HEALTH | L05761 | EDINBURG | 43 | 06/30/26 |
| EL PASO | TEXAS ONCOLOGY PA DBA EL PASO CANCER TREATMENT CENTER-EAST | L05771 | EL PASO | 24 | 06/16/26 |
| EL PASO | EL PASO HOSPITAL DISTRICT DBA UNIVERSITY MEDICAL CENTER OF EL PASO | L00502 | EL PASO | 87 | 06/15/26 |
| GRAPEVINE | MNX GLOBAL LOGISTICS CORP | L07144 | GRAPEVINE | 4 | 06/30/26 |
| HOUSTON | CARDIONAVIX LLC | L06984 | HOUSTON | 06 | 06/29/26 |
| HOUSTON | HOUSTON CARDIOVASCULAR ASSOCIATES | L05070 | HOUSTON | 28 | 06/24/26 |
| HOUSTON | UT PHYSICIANS | L05465 | HOUSTON | 32 | 06/25/26 |
| HOUSTON | RICE UNIVERSITY | L01772 | HOUSTON | 34 | 06/16/26 |
| HOUSTON | HARRIS COUNTY HOSPITAL DISTRICT DBA HARRIS HEALTH | L04412 | HOUSTON | 60 | 06/30/26 |
| HOUSTON | KELSEY – SEYBOLD MEDICAL GROUP PLLC DBA KELSEY-SEYBOLD CLINIC | L00391 | HOUSTON | 91 | 06/16/26 |
| HOUSTON | BAYLOR COLLEGE OF MEDICINE | L00680 | HOUSTON | 137 | 06/26/26 |
| HUMBLE | CARDIOVASCULAR ASSOCIATION PLLC | L05421 | HUMBLE | 41 | 06/17/26 |

| AMENDMENTS TO EXISTING LICENSES ISSUED | | | | | |
|---|---|---|---|---|---|
| Location of Use/Possession of Material | Name of Licensed Entity | License Number | City of Licensed Entity | Amend-ment Number | Date of Action |
| IRVING | THE UNIVERSITY OF DALLAS | L07155 | IRVING | 01 | 06/24/26 |
| KINGWOOD | TEXAS ONCOLOGY PA | L07282 | KINGWOOD | 03 | 06/18/26 |
| LAKE JACKSON | DOW HYDROCARBONS AND RESOURCES LLC | L07234 | LAKE JACKSON | 09 | 06/29/26 |
| LUBBOCK | COVENANT MEDICAL CENTER | L06993 | LUBBOCK | 13 | 06/24/26 |
| MANSFIELD | TEXAS HEALTH HOSPITAL MANSFIELD | L07076 | MANSFIELD | 11 | 06/19/26 |
| MCALLEN | RIO GRANDE VALLEY ISOTOPES LLC | L06202 | MCALLEN | 16 | 06/26/26 |
| ORANGE | THE DOW CHEMICAL COMPANY | L07026 | ORANGE | 09 | 06/24/26 |
| ORANGE | S & T INTERNATIONAL INC | L03652 | ORANGE | 43 | 06/29/26 |
| PASADENA | MOHAMED O JEROUDI MD PA | L07283 | PASADENA | 02 | 06/17/26 |
| PLANO | ORANO MED THERANOSTICS LLC | L07255 | PLANO | 03 | 06/18/26 |
| PLANO | ORANO MED THERANOSTICS LLC | L07255 | PLANO | 04 | 06/18/26 |
| RICHARDSON | METHODIST HOSPITALS OF DALLAS DBA METHODIST RICHARDSON MEDICAL CENTER | L06475 | RICHARDSON | 16 | 06/18/26 |
| SAN ANTONIO | NAVEEN KELLA MD PA | L07272 | SAN ANTONIO | 02 | 06/24/26 |
| SAN ANTONIO | TEXAS ONCOLOGY PA | L06747 | SAN ANTONIO | 17 | 06/18/26 |
| SAN ANTONIO | ENDOCRINOLOGY NUCLEAR MEDICINE ASSOCIATES | L03343 | SAN ANTONIO | 20 | 06/23/26 |

| AMENDMENTS TO EXISTING LICENSES ISSUED | | | | | |
|---|---|---|---|---|---|
| Location of Use/Possession of Material | Name of Licensed Entity | License Number | City of Licensed Entity | Amend-ment Number | Date of Action |
| SUGAR LAND | TMH PHYSICIAN ORGANIZATION DBA METHODIST SUGAR LAND CARDIOLOGY ASSOCIATES | L06575 | SUGAR LAND | 09 | 06/20/26 |
| THE WOODLANDS | SMI IMAGING LLC DBA SIMONMED IMAGING – COLLEGE PARK | L07279 | THE WOODLANDS | 02 | 06/17/26 |
| THROUGHOUT TX | SAM-CONSTRUCTION SERVICES LLC | L07108 | AUSTIN | 07 | 06/26/26 |
| THROUGHOUT TX | VERTEX RESOURCE SERVICES INC | L07209 | CONROE | 02 | 06/24/26 |
| THROUGHOUT TX | NATIONAL INSPECTION SERVICES LLC | L05930 | FORT WORTH | 57 | 06/22/26 |
| THROUGHOUT TX | OATLAS TECHNICAL CONSULTANTS LLC | L06407 | HOUSTON | 38 | 06/29/26 |
| THROUGHOUT TX | NUCLEAR SCANNING SERVICES INC | L04339 | HOUSTON | 40 | 06/18/26 |
| THROUGHOUT TX | GEOTEST ENGINEERING INC | L02735 | HOUSTON | 51 | 06/22/26 |
| THROUGHOUT TX | DIGIRAD IMAGING SOLUTIONS INC | L05414 | HOUSTON | 57 | 06/16/26 |
| THROUGHOUT TX | BARRACUDA SPECIALTY SERVICE LLC | L06915 | HUMBLE | 015 | 06/18/26 |
| THROUGHOUT TX | ADVANCED CORROSION TECHNOLOGIES & TRAINING LLC | L06508 | LA PORTE | 34 | 06/18/26 |
| THROUGHOUT TX | THE DOW CHEMICAL COMPANY | L00451 | LAKE JACKSON | 123 | 06/18/26 |
| THROUGHOUT TX | CACTUS MEASUREMENT LLC | L07187 | MIDLAND | 08 | 06/25/26 |
| THROUGHOUT TX | CDK PERFORATING LLC | L06616 | MIDLAND | 015 | 06/24/26 |

| AMENDMENTS TO EXISTING LICENSES ISSUED | | | | | |
|---|---|---|---|---|---|
| Location of Use/Possession of Material | Name of Licensed Entity | License Number | City of Licensed Entity | Amend-ment Number | Date of Action |
| THROUGHOUT TX | SHARED MEDICAL SERVICES INC | L06142 | NACOGDOCHES | 52 | 06/30/26 |
| THROUGHOUT TX | SOUTHWEST RESEARCH INSTITUTE | L04958 | SAN ANTONIO | 27 | 06/15/26 |
| THROUGHOUT TX | SCHLUMBERGER TECHNOLOGY CORPORATION | L01833 | SUGAR LAND | 231 | 06/18/26 |
| THROUGHOUT TX | MEMORIAL HERMANN HEALTH SYSTEM DBA MEMORIAL HERMANN SOUTHWEST HOSPITAL | L00439 | THE WOODLANDS | 280 | 06/19/26 |
| WACO | HILLCREST BAPTIST MEDICAL CENTER DBA BAYLOR SCOTT & WHITE MEDICAL CENTER HILLCREST | L00845 | WACO | 134 | 06/23/26 |

| RENEWAL OF LICENSES ISSUED | | | | | |
|---|---|---|---|---|---|
| Location of Use/Possession of Material | Name of Licensed Entity | License Number | City of Licensed Entity | Amend-ment Number | Date of Action |
| HOUSTON | CARDIOLOGY CONSULTANTS OF HOUSTON PLLC | L06757 | HOUSTON | 05 | 06/15/26 |
| ORANGE | ARLANXEO USA LLC | L06782 | ORANGE | 06 | 06/26/26 |
| SWEENY | CHEVRON PHILLIPS CHEMICAL COMPANY LP | L06771 | SWEENY | 07 | 06/26/26 |
| THROUGHOUT TX | TECHCORR USA MANAGEMENT LLC DBA AUT SPECIALISTS | L05972 | PASADENA | 138 | 06/25/26 |
| THROUGHOUT TX | P.L.P.S. INC | L04955 | PEARLAND | 11 | 06/30/26 |
| WEBSTER | CHCA CLEAR LAKE LP DBA HCA HOUSTON | L01680 | WEBSTER | 118 | 06/18/26 |

| RENEWAL OF LICENSES ISSUED | | | | | |
|---|---|---|---|---|---|
| Location of Use/Possession of Material | Name of Licensed Entity | License Number | City of Licensed Entity | Amend-ment Number | Date of Action |
| | HEALTHCARE CLEAR LAKE | | | | |

TRD-202603173
Cynthia Hernandez
General Counsel
Department of State Health Services
Filed: July 27, 2026

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## Texas Department of Insurance

Company Licensing

Application for incorporation in the state of Texas for Invictus Specialty Insurance Exchange, a domestic reciprocal company. The home office is in Plano, Texas.

Any objections must be filed with the Texas Department of Insurance, within twenty (20) calendar days from the date of the *Texas Register* publication, addressed to the attention of Andrew Guerrero, 1601 Congress Ave., Suite 6.900, Austin, Texas 78701.

TRD-202603214
Justin Beam
Chief Clerk
Texas Department of Insurance
Filed: July 29, 2026

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## Texas Department of Licensing and Regulation

Scratch Ticket Game Number 2760 "BINGO TIMES 20"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2760 is "BINGO TIMES 20". The play style is "bingo".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 2760 shall be $5.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2760.

A. Display Printing - That area of the Scratch Ticket outside of the area where the overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the Scratch Ticket.

C. Play Symbol - The printed data under the latex on the front of the Scratch Ticket that is used to determine eligibility for a prize. Each Play Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black Play Symbols are: CHERRY SYMBOL, DIAMOND SYMBOL, HORSESHOE SYMBOL, SAILBOAT SYMBOL, ANCHOR SYMBOL, WATERMELON SYMBOL, MONEY BAG SYMBOL, GOLD BAR SYMBOL, HEART SYMBOL, STAR SYMBOL, B01, B02, B03, B04, B05, B06, B07, B08, B09, B10, B11, B12, B13, B14, B15, I16, I17, I18, I19, I20, I21, I22, I23, I24, I25, I26, I27, I28, I29, I30, N31, N32, N33, N34, N35, N36, N37, N38, N39, N40, N41, N42, N43, N44, N45, G46, G47, G48, G49, G50, G51, G52, G53, G54, G55, G56, G57, G58, G59, G60, O61, O62, O63, O64, O65, O66, O67, O68, O69, O70, O71, O72, O73, O74, O75, 01, 02, 03, 04, 05, 06, 07, 08, 09, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, FREE SYMBOL and X20 SYMBOL.

D. Play Symbol Caption - The printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears under each Play Symbol and is printed in caption font in black ink in positive. Crossword and Bingo style games do not typically have Play Symbol captions. In this game, only certain Play Symbols have a Play Symbol Caption. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 2760 - 1.2D

| PLAY SYMBOL | CAPTION |
|---|---|
| CHERRY SYMBOL | CHERRY |
| DIAMOND SYMBOL | DIAMND |
| HORSESHOE SYMBOL | HRSHOE |
| SAILBOAT SYMBOL | BOAT |
| ANCHOR SYMBOL | ANCHOR |
| WATERMELON SYMBOL | WTRMLN |
| MONEY BAG SYMBOL | BAG |
| GOLD BAR SYMBOL | BAR |
| HEART SYMBOL | HEART |
| STAR SYMBOL | STAR |
| B01 | |
| B02 | |
| B03 | |
| B04 | |
| B05 | |
| B06 | |
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| B08 | |
| B09 | |
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| B12 | |
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| B14 | |
| B15 | |
| I16 | |
| I17 | |

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| I18 | |
| I19 | |
| I20 | |
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| FREE SYMBOL | |
| X20 SYMBOL | |

E. Serial Number - A unique thirteen (13) digit number appearing under the latex scratch-off covering on the front of the Scratch Ticket. The Serial Number is for validation purposes and cannot be used to play the game. The format will be: 0000000000000.

F. Bar Code - A twenty-four (24) character interleaved two (2) of five (5) Bar Code which will include a four (4) digit game ID, the seven (7) digit Pack number, the three (3) digit Ticket number and the ten (10) digit Validation Number. The Bar Code appears on the back of the Scratch Ticket.

G. Game-Pack-Ticket Number - A fourteen (14) digit number consisting of the four (4) digit game number (2760), a seven (7) digit Pack number, and a three (3) digit Ticket number. Ticket numbers start with 001 and end with 075 within each Pack. The format will be: 2760-0000001-001.

H. Pack - A Pack of the "BINGO TIMES 20" Scratch Ticket Game contains 075 Tickets, packed in plastic shrink-wrapping and fanfolded in pages of one (1). Ticket 001 will be shown on the front of the Pack; the back of Ticket 075 will be revealed on the back of the Pack. All Packs will be tightly shrink-wrapped. There will be no breaks between the Tickets in a Pack. Every other Pack will reverse; i.e., reverse order will be: the back of Ticket 001 will be shown on the front of the Pack and the front of Ticket 075 will be shown on the back of the Pack.

I. Non-Winning Scratch Ticket - A Scratch Ticket which is not programmed to be a winning Scratch Ticket or a Scratch Ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 140.

J. Scratch Ticket Game, Scratch Ticket or Ticket - Texas Lottery "BINGO TIMES 20" Scratch Ticket Game No. 2760.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general Scratch Ticket validation requirements set forth in Texas Lottery Rule 140.302, Scratch Ticket Game Rules, these Game Procedures, and the requirements set out on the back of each Scratch Ticket. A prize winner in the "BINGO TIMES 20" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose the Play Symbols as indicated per the game instructions from the total of one hundred eighty-one (181) Play Sym-

bols. BINGO TIMES 20 PLAY INSTRUCTIONS: The player completely scratches the "CALLER'S CARD" area and the "5 BONUS NUMBERS" area to reveal a total of twenty-nine (29) Bingo Numbers. The player scratches only those Bingo Numbers on the six (6) "BINGO CARDS" that match the "CALLER'S CARD" Bingo Numbers and the "5 BONUS NUMBERS" Bingo Numbers. The player also scratches the "X20" spaces and the "FREE" spaces on the six (6) "BINGO CARDS". If the player matches all Bingo Numbers in a complete vertical, horizontal or diagonal line (five (5) Bingo Numbers, four (4) Bingo Numbers + "FREE" space, four (4) Bingo Numbers + "X20" space, or three (3) Bingo Numbers + "X20" space + "FREE" space), the player wins the prize in the corresponding prize legend for that "BINGO CARD". If the player matches all Bingo Numbers in all four (4) corners, the player wins the prize in the corresponding prize legend for that "BINGO CARD". If the player matches all Bingo Numbers to complete an "X" (eight (8) Bingo Numbers + "FREE" space), the player wins the prize in the corresponding prize legend for that "BINGO CARD". X20 PLAY INSTRUCTIONS: If a completed LINE pattern in any of the six (6) "BINGO CARDS" contains a "X20" symbol, the player wins 20 TIMES the LINE prize in the corresponding prize legend for that "BINGO CARD". Note: Only the highest prize per "BINGO CARD" will be paid. BONUS GAME PLAY INSTRUCTIONS: If the player reveals 2 matching Play Symbols in the BONUS GAME, the player wins $20. No portion of the Display Printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Scratch Ticket.

2.1 Scratch Ticket Validation Requirements.

A. To be a valid Scratch Ticket, all of the following requirements must be met:

1. Exactly one hundred eighty-one (181) Play Symbols must appear under the Latex Overprint on the front portion of the Scratch Ticket;

2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless otherwise specified in Table 1, and each Play Symbol must agree with its Play Symbol Caption. Crossword and Bingo style games do not typically have Play Symbol captions;

3. Each of the Play Symbols must be present in its entirety and be fully legible;

4. Each of the Play Symbols must be printed in black ink except for dual image games;

5. The Scratch Ticket shall be intact;

6. The Serial Number and Game-Pack-Ticket Number must be present in their entirety and be fully legible;

7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the Scratch Ticket;

8. The Scratch Ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;

9. The Scratch Ticket must not be counterfeit in whole or in part;

10. The Scratch Ticket must have been issued by the Texas Lottery in an authorized manner;

11. The Scratch Ticket must not have been stolen, nor appear on any list of omitted Scratch Tickets or non-activated Scratch Tickets on file at the Texas Lottery;

12. The Play Symbols, Serial Number and Game-Pack-Ticket Number must be right side up and not reversed in any manner;

13. The Scratch Ticket must be complete and not miscut, and have exactly one hundred eighty-one (181) Play Symbols under the Latex Overprint on the front portion of the Scratch Ticket, exactly one Serial Number and exactly one Game-Pack-Ticket Number on the Scratch Ticket;

14. The Serial Number of an apparent winning Scratch Ticket shall correspond with the Texas Lottery's Serial Numbers for winning Scratch Tickets, and a Scratch Ticket with that Serial Number shall not have been paid previously;

15. The Scratch Ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;

16. Each of the one hundred eighty-one (181) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the one hundred eighty-one (181) Play Symbols on the Scratch Ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the Scratch Ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Game-Pack-Ticket Number must be printed in the Game-Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

18. The Display Printing on the Scratch Ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The Scratch Ticket must have been received by the Texas Lottery by applicable deadlines.

B. The Scratch Ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Scratch Ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director of the Texas Lottery ("Executive Director") may, solely at the Executive Director's discretion, refund the retail sales price of the Scratch Ticket. In the event a defective Scratch Ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective Scratch Ticket with another unplayed Scratch Ticket in that Scratch Ticket Game (or a Scratch Ticket of equivalent sales price from any other current Texas Lottery Scratch Ticket Game) or refund the retail sales price of the Scratch Ticket, solely at the Executive Director's discretion.

2.2 Programmed Game Parameters.

A. GENERAL: Consecutive Non-Winning Tickets within a Pack will not have matching patterns, in the same order, of either Play Symbols or Prize Symbols.

B. GENERAL: A Ticket can win as indicated by the prize structure.

C. GENERAL: A Ticket can win up to six (6) times.

D. BONUS GAME: Winning Tickets will contain two (2) matching Play Symbols in the "BONUS GAME" play area and will win as per the prize structure.

E. BINGO: The number range used for each letter (B,I,N,G,O) will be as follows: B (1-15), I (16-30), N (31-45), G (46-60) and O (61-75).

F. BINGO: On winning and Non-Winning Tickets, there will be no matching "CALLER'S CARD" or "5 BONUS NUMBERS" Play Symbols.

G. BINGO: Each of the "CALLER'S CARD" and "5 BONUS NUMBERS" Play Symbols will appear on at least one (1) of the six (6) "BINGO CARDS".

H. BINGO: Each "BINGO CARD" will contain twenty-three (23) numbers, one (1) "FREE" Play Symbol fixed in the center of the CARD and one (1) "X20" Play Symbol.

I. BINGO: The "I20" CALLER'S CARD and 5 BONUS NUMBERS Play Symbols will never appear in the "CALLER'S CARD" or the "5 BONUS NUMBERS" play areas.

J. BINGO: The "20" BINGO CARDS Play Symbol will never appear on a "BINGO CARD".

K. BINGO: There will be no matching Play Symbols on each "BINGO CARD" play area.

L. BINGO: The "X20" Play Symbol will appear one (1) time per "BINGO CARD" but will never appear in a corner or inside the "X" pattern of a "BINGO CARD".

M. BINGO: The "X20" Play Symbol will win 20 TIMES the prize and will win as per the prize structure.

N. BINGO: Prizes for "BINGO CARDS" 1-6 are as follows:

CARD 1: LINE=$5. 4 CORNERS=$20. X=$100.

CARD 2: LINE=$10. 4 CORNERS=$25. X=$200.

CARD 3: LINE=$15. 4 CORNERS=$50. X=$400.

CARD 4: LINE=$20. 4 CORNERS=$100. X=$500.

CARD 5: LINE=$25. 4 CORNERS=$300. X=$1,000.

CARD 6: LINE=$50. 4 CORNERS=$500. X=$100,000.

O. BINGO: Each "BINGO CARD" on a Ticket will be different. Two (2) cards match if they have the same number Play Symbols in the same spots.

P. BINGO: Non-winning "BINGO CARDS" will match a minimum of three (3) number Play Symbols.

Q. BINGO: There can only be one (1) winning pattern on each "BINGO CARD".

2.3 Procedure for Claiming Prizes.

A. To claim a "BINGO TIMES 20" Scratch Ticket Game prize of $5.00, $10.00, $15.00, $20.00, $25.00, $30.00, $50.00, $100, $200, $300, $400 or $500, a claimant shall sign the back of the Scratch Ticket in the space designated on the Scratch Ticket and may present the winning Scratch Ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the Scratch Ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a $25.00, $30.00, $50.00, $100, $200, $300, $400 or $500 Scratch Ticket Game. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied, and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "BINGO TIMES 20" Scratch Ticket Game prize of $1,000 or $100,000, the claimant must sign the winning Scratch Ticket and may present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning Scratch Ticket for that prize upon presentation of proper identification. When paying a prize of $600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied, and the claimant shall be notified promptly.

C. As an alternative method of claiming a "BINGO TIMES 20" Scratch Ticket Game prize, the claimant may submit the signed winning Scratch Ticket and a thoroughly completed claim form via mail. If a prize value is $1,000,000 or more, the claimant must also provide proof of Social Security number or Taxpayer Identification (for U.S. Citizens or Resident Aliens). Mail all to: Texas Lottery, P.O. Box 16600, Austin, Texas 78761-6600. The Texas Lottery is not responsible for Scratch Tickets lost in the mail. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied, and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct the amount of a delinquent tax or other money from the winnings of a prize winner who has been finally determined to be:

1. delinquent in the payment of a tax or other money to a state agency and that delinquency is reported to the Comptroller under Government Code §403.055;

2. in default on a loan made under Chapter 52, Education Code;

3. in default on a loan guaranteed under Chapter 57, Education Code; or

4. delinquent in child support payments in the amount determined by a court or a Title IV-D agency under Chapter 231, Family Code.

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;

B. if there is any question regarding the identity of the claimant;

C. if there is any question regarding the validity of the Scratch Ticket presented for payment; or

D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize under $600 from the "BINGO TIMES 20" Scratch Ticket Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of $600 or more from the "BINGO TIMES 20" Scratch Ticket Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Scratch Ticket Claim Period. All Scratch Ticket prizes must be claimed within 180 days following the end of the Scratch Ticket Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code §466.408. Any rights to a

prize that is not claimed within that period, and in the manner specified in these Game Procedures and on the back of each Scratch Ticket, shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of Scratch Tickets ordered. The number of actual prizes available in a game may vary based on number of Scratch Tickets manufactured, testing, distribution, sales and number of prizes claimed. A Scratch Ticket Game may continue to be sold even when all the top prizes have been claimed.

3.0 Scratch Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of a Scratch Ticket in the space designated, a Scratch Ticket shall be owned by the physical possessor of said Scratch Ticket. When a signature is placed on the back of the Scratch Ticket in the space designated, the player whose signature appears in that area shall be the owner of the Scratch Ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the Scratch Ticket in the space designated. If more than one name appears on the back of the Scratch Ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Scratch Tickets and shall not be required to pay on a lost or stolen Scratch Ticket.

4.0 Number and Value of Scratch Prizes. There will be approximately 17,280,000 Scratch Tickets in Scratch Ticket Game No. 2760. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2760 - 4.0

| Prize Amount | Approximate Number of Winners* | Approximate Odds are 1 in ** |
|---|---|---|
| $5.00 | 1,728,000 | 10.00 |
| $10.00 | 864,000 | 20.00 |
| $15.00 | 403,200 | 42.86 |
| $20.00 | 345,600 | 50.00 |
| $25.00 | 345,600 | 50.00 |
| $30.00 | 131,040 | 131.87 |
| $50.00 | 148,800 | 116.13 |
| $100 | 52,992 | 326.09 |
| $200 | 3,504 | 4,931.51 |
| $300 | 2,016 | 8,571.43 |
| $400 | 1,680 | 10,285.71 |
| $500 | 1,392 | 12,413.79 |
| $1,000 | 28 | 617,142.86 |
| $100,000 | 5 | 3,456,000.00 |

*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

**The overall odds of winning a prize are 1 in 4.29. The individual odds of winning for a particular prize level may vary based on sales, distribution, testing, and number of prizes claimed.

A. The actual number of Scratch Tickets in the game may be increased or decreased at the sole discretion of the Texas Lottery.

5.0 End of the Scratch Ticket Game. The Executive Director may, at any time, announce a closing date (end date) for the Scratch Ticket Game No. 2760 without advance notice, at which point no further Scratch Tickets in that game may be sold. The determination of the closing date and reasons for closing will be made in accordance with the Scratch Ticket closing procedures and the Scratch Ticket Game Rules. See 16 TAC §140.302(j).

6.0 Governing Law. In purchasing a Scratch Ticket, the player agrees to comply with, and abide by, these Game Procedures for Scratch Ticket Game No. 2760, the State Lottery Act (Texas Government Code, Chapter 466), applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 140, and all final decisions of the Executive Director.

TRD-202603206
Deanne Rienstra
General Counsel
Texas Department of Licensing and Regulation
Filed: July 28, 2026

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## Public Utility Commission of Texas

### Notice of Application to Adjust High-Cost Support Under 16 TAC §26.407(h)

Notice is given to the public of an application filed with the Public Utility Commission of Texas (Commission) on July 23, 2026, for seeking a determination of need for continued support from the Small and Rural Incumbent Local Exchange Company Universal Service Plan.

Docket Title and Number: Application of Taylor Telephone Cooperative, Inc. to Adjust High-Cost Support Under 16 TAC §26.407(h), Docket Number 60041.

The Application: Taylor Telephone Cooperative, Inc. requests a high-cost support adjustment increase of $339,537 in annual high-cost support. According to Taylor Telephone Cooperative, Inc., the requested adjustment complies with the cap of 140% of the annualized support the provider was authorized to receive in the 12 months prior to the date of the adjustment, as required by 16 Texas Administrative Code §26.407(g)(1).

Persons wishing to comment on the action sought should contact the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at (888) 782-8477 as a deadline to intervene may be imposed. Hearing-and speech-impaired individuals with text telephone (TTY) may contact the commission through Relay Texas by dialing 7-1-1. All comments should reference Docket Number 60041.

TRD-202603143
Andrea Gonzalez
Rules Coordinator
Public Utility Commission of Texas
Filed: July 27, 2026

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### Notice of Application to Recover Funds From the Texas Universal Service Fund Under 16 TAC §26.406

Notice is given to the public of an application filed with the Public Utility Commission of Texas (Commission) on July 22, 2026, for seeking a determination of need for continued support from the Small and Rural Incumbent Local Exchange Company Universal Service Plan.

Docket Style and Number: Application of Blossom Telephone Company, Inc. to Recover Funds from the Texas Universal Service Fund Under PURA §56.025 and 16 TAC §26.406, Docket Number 60033.

The Application: Blossom Telephone seeks recovery of funds from the Texas Universal Service Fund (TUSF). Blossom Telephone requests that the Commission allow recovery of funds from the TUSF in the amount of $496,672 for the calendar year.

Persons wishing to comment on the action sought should contact the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at (888) 782-8477 as a deadline to intervene may be imposed. Hearing-and speech-impaired individuals with text telephone (TTY) may contact the commission through Relay Texas by dialing 7-1-1. All comments should reference Docket Number 60033.

TRD-202603145
Andrea Gonzalez
Rules Coordinator
Public Utility Commission of Texas
Filed: July 27, 2026

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## Texas State Soil and Water Conservation Board

### Request for Proposals - Fiscal Year 2027 Clean Water Act §319(h) Nonpoint Source Grant Program

This request for proposals (RFP) provides instructions and guidance for applicants seeking funding from the Texas State Soil and Water Conservation Board (TSSWCB) under the Clean Water Act (CWA) §319(h) Nonpoint Source (NPS) Grant Program. The U.S. Environmental Protection Agency (EPA) distributes funds appropriated by Congress annually to the TSSWCB under the authorization of CWA §319(h). TSSWCB then administers/awards these federal funds as grants to cooperating entities for activities that address the goals, objectives, and priorities stated in the *Texas NPS Management Program*. The *Texas NPS Management Program* is the State's comprehensive strategy to protect and restore water quality in waterbodies impacted by NPS water pollution. This document can be accessed online at https://www.tsswcb.texas.gov/programs/texas-nonpoint-source-management-program.

The types of agricultural and silvicultural NPS pollution prevention and abatement activities that can be funded with §319(h) grants include the following: (1) implementation of nine-element watershed protection plans (WPPs) and the agricultural and silvicultural NPS portion of Total Maximum Daily Load (TMDL) Implementation Plans (I-Plans); (2) surface water quality monitoring, data analysis and modeling, demonstration of innovative best management practices (BMPs); (3) technical assistance to landowners for conservation planning; (4) public outreach/education, development of nine-element WPPs including the formation and facilitation of stakeholder groups; and (5) monitoring activities to determine the effectiveness of specific pollution prevention methods. Strictly research activities are not eligible for §319(h) grant funding.

The TSSWCB is requesting proposals for watershed assessment, planning, implementation, demonstration, and education projects within the boundaries of impaired or threatened watersheds. The Texas Integrated Report of Surface Water Quality (https://www.tceq.texas.gov/waterquality/assessment) describes the water quality conditions for waterbodies in the state. All proposals must focus on the restoration and protection of water quality consistent with the goals, objectives,

and priority watersheds and aquifers identified in Appendix C and D of the *Texas NPS Management Program*. Up to $1 million of the TSSWCB's FY2027 CWA §319(h) grant will be eligible for award under this RFP. No more than 10% of these funds may be utilized for groundwater projects. A competitive proposal process will be used so that the most appropriate and effective projects are selected for available funding.

To obtain a complete copy of TSSWCB's RFP and proposal submission packet, please visit https://www.tsswcb.texas.gov/programs/texas-nonpoint-source-management-program or contact Jana Lloyd at (254) 773-2250 ext. 224. All proposals must be submitted electronically (MS® Word) using the workplan template provided in this RFP; otherwise, proposals will be considered administratively incomplete and not considered for funding. All letters of support for the proposal, including letters from Project Partners confirming their role, must be received by the proposal due date to be considered. Submit proposals to jlloyd@tsswcb.texas.gov. Proposals must be received electronically by 5:00 p.m. CDT, September 18, 2026 to be considered.

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Texas State Soil and Water Conservation Board
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Government Relations Specialist
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## How to Use the Texas Register

**Information Available:** The sections of the *Texas Register* represent various facets of state government. Documents contained within them include:

**Governor** - Appointments, executive orders, and proclamations.

**Attorney General** - summaries of requests for opinions, opinions, and open records decisions.

**Texas Ethics Commission** - summaries of requests for opinions and opinions.

**Emergency Rules** - sections adopted by state agencies on an emergency basis.

**Proposed Rules** - sections proposed for adoption.

**Withdrawn Rules** - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after the proposal publication date.

**Adopted Rules** - sections adopted following public comment period.

**Texas Department of Insurance Exempt Filings** - notices of actions taken by the Texas Department of Insurance pursuant to Chapter 5, Subchapter L of the Insurance Code.

**Review of Agency Rules** - notices of state agency rules review.

**Tables and Graphics** - graphic material from the proposed, emergency and adopted sections.

**Transferred Rules** - notice that the Legislature has transferred rules within the *Texas Administrative Code* from one state agency to another, or directed the Secretary of State to remove the rules of an abolished agency.

**In Addition** - miscellaneous information required to be published by statute or provided as a public service.

Specific explanation on the contents of each section can be found on the beginning page of the section. The division also publishes cumulative quarterly and annual indexes to aid in researching material published.

**How to Cite:** Material published in the *Texas Register* is referenced by citing the volume in which the document appears, the words "TexReg" and the beginning page number on which that document was published. For example, a document published on page 2402 of Volume 51 (2026) is cited as follows: 51 TexReg 2402.

In order that readers may cite material more easily, page numbers are now written as citations. Example: on page 2 in the lower-left hand corner of the page, would be written "51 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 51 TexReg 3."

**How to Research:** The public is invited to research rules and information of interest between 8 a.m. and 5 p.m. weekdays at the *Texas Register* office, James Earl Rudder Building, 1019 Brazos, Austin. Material can be found using *Texas Register* indexes, the *Texas Administrative Code* section numbers, or TRD number.

Both the *Texas Register* and the *Texas Administrative Code* are available online at: https://www.sos.texas.gov. The *Texas Register* is available in an .html version as well as a .pdf version through the internet. For website information, call the Texas Register at (512) 463-5561.

## Texas Administrative Code

The *Texas Administrative Code (TAC*) is the compilation of all final state agency rules published in the *Texas Register*. Following its effective date, a rule is entered into the *Texas Administrative Code*. Emergency rules, which may be adopted by an agency on an interim basis, are not codified within the *TAC*.

The *TAC* volumes are arranged into Titles and Parts (using Arabic numerals). The Titles are broad subject categories into which the agencies are grouped as a matter of convenience. Each Part represents an individual state agency.

The complete *TAC* is available through the Secretary of State's website at http://www.sos.state.tx.us/tac.

The Titles of the *TAC*, and their respective Title numbers are:

1. Administration
4. Agriculture
7. Banking and Securities
10. Community Development
13. Cultural Resources
16. Economic Regulation
19. Education
22. Examining Boards
25. Health Services
28. Insurance
30. Environmental Quality
31. Natural Resources and Conservation
34. Public Finance
37. Public Safety and Corrections
40. Social Services and Assistance
43. Transportation

**How to Cite**: Under the *TAC* scheme, each section is designated by a *TAC* number. For example in the citation 1 TAC §91.1: 1 indicates the title under which the agency appears in the *Texas Administrative Code*; *TAC* stands for the *Texas Administrative Code*; §91.1 is the section number of the rule (91 indicates that the section is under Chapter 91 of Title 1; 1 represents the individual section within the chapter).

**How to Update:** To find out if a rule has changed since the publication of the current supplement to the *Texas Administrative Code*, please look at the *Index of Rules*.

The *Index of Rules* is published cumulatively in the blue-cover quarterly indexes to the *Texas Register*.

If a rule has changed during the time period covered by the table, the rule's *TAC* number will be printed with the *Texas Register* page number and a notation indicating the type of filing (emergency, proposed, withdrawn, or adopted) as shown in the following example.

**TITLE 1. ADMINISTRATION**
***Part 4. Office of the Secretary of State***
**Chapter 91. Texas Register**
1 TAC §91.1…….....950 *(P)*

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