PROPOSED RULES

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

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

TITLE 1. ADMINISTRATION

PART 15. TEXAS HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 351. COORDINATED PLANNING AND DELIVERY OF HEALTH AND HUMAN SERVICES

SUBCHAPTER B. ADVISORY COMMITTEES

DIVISION 1. COMMITTEES

1 TAC §351.853

The executive commissioner of the Texas Health and Human Services Commission (HHSC) proposes new §351.853, concerning the Hospital Payment Advisory Committee (HPAC), in Texas Administrative Code (TAC) Title 1, Part 15, Chapter 351, Subchapter B, Advisory Committees, Division 1, Committees.

BACKGROUND AND PURPOSE

The purpose of the proposal is to establish HPAC as a standalone advisory committee under its own TAC section. Historically, HPAC existed as a subcommittee of the Medical Care Advisory Committee (MCAC). HPAC advises the executive commissioner and HHSC on matters related to hospital reimbursements, payment rates, supplemental payment programs, and adjustments for disproportionate share hospitals. In December 2024, the executive commissioner approved the separation of HPAC from MCAC after changes to the federal regulation required separate committees for beneficiaries and providers. Subsequently, HPAC has been functioning as a standalone committee. This proposal increases HPAC membership from the 14-member subcommittee to 15 members for the standalone committee and updates categories to better reflect Texas demographics.

Rural Hospital Advisory Committee (RHAC) is a statutorily required body under Texas Government Code §526.0302. The RHAC advises HHSC on issues relating specifically to rural hospitals. The proposal maintains the current structure of RHAC as a subcommittee of HPAC.

SECTION-BY-SECTION SUMMARY

Proposed new §351.853(a) provides the statutory authority for HPAC and that RHAC will be a subcommiteee of HPAC

Proposed new §351.853(b) describes the purpose of HPAC.

Proposed new §351.853(c) lists tasks performed by HPAC.

Proposed new §351.853(d) provides that a written report is not required.

Proposed new §351.853(e) describes the meeting requirements.

Proposed new §351.853(f) lists the membership composition and appointment terms.

Proposed new §351.853(g) lists the selection of officers and terms.

Proposed new §351.853(h) provides the required training that will be provided by HHSC.

Proposed new §351.853(i) lists the travel reimbursement of members.

Proposed new §351.853(j) provides the abolishment date.

FISCAL NOTE

Trey Wood, Chief Financial and Operations Officer, 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

Trey Wood, Chief Financial and Operations Officer, has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities. The rule does not apply to small businesses, micro-businesses, or rural communities.

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

Victoria Grady, Deputy Chief, Finance, has determined that for each year of the first five years the rule is in effect, the establishment of HPAC as a standalone committee, and RHAC as its subcommittee, will benefit the public as the committee will continue to advise HHSC on supporting hospitals in urban and rural locations.

Trey Wood 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 HPAC currently exists under the MCAC rule and this proposal establishes it as a standalone committee.

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 26R026" in the subject line.

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 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; 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; and Texas Government Code §523.0203, which provides that the executive commissioner of HHSC shall establish and maintain advisory committees and adopt rules governing such advisory committees in compliance with Texas Government Code Chapter 2110.

The new section affects Texas Government Code §§524.0151, 524.0005, 532.0051, 532.0057(a), 523.0203, and Chapter 2110. The new section also affects Texas Human Resources Code Chapter 32.

§351.853. Hospital Payment Advisory Committee.

(a) Statutory authority. The Hospital Payment Advisory Committee (HPAC) is established under Texas Government Code §523.0201 and is subject to §351.801 of this division (relating to Authority and General Provisions). The Rural Hospital Advisory Committee (RHAC) shall be a subcommittee of HPAC as authorized in Texas Government Code §526.0302(a).

(b) Purpose. HPAC advises the executive commissioner and the Texas Health and Human Services Commission (HHSC) on matters related to hospital reimbursements and outpatient hospital payment rates, Medicaid supplemental payment programs for hospitals, and adjustments for disproportionate share hospitals.

(c) Tasks. HPAC performs the following tasks:

(1) advises HHSC on matters related to hospital reimbursements and outpatient hospital payment rates, Medicaid supplemental payment programs for hospitals, and adjustments for disproportionate share hospitals; and

(2) adopts bylaws to guide how HPAC operates.

(d) Reporting requirements. A written HPAC report is not required.

(e) Meetings.

(1) Open meetings. In accordance with statute, HPAC complies with the requirements for open meetings under Texas Government Code Chapter 551 as if it were a governmental body.

(2) Frequency. HPAC will meet quarterly.

(3) Quorum. A majority of all members constitutes a quorum for the purpose of transacting official business.

(f) Membership.

(1) HPAC is composed of 15 members appointed by the executive commissioner.

(A) In selecting voting members to serve on HPAC, HHSC considers the applicants' qualifications, background, interest in serving, and geographic location.

(B) Fifteen voting members represent the following categories:

(i) hospital administrator;

(ii) hospital finance administrator;

(iii) hospital clinical administrator;

(iv) consumers (Medicaid clients or representative);

(v) advocacy groups (healthcare providers or hospital-related interests);

(vi) Medicaid managed care organizations;

(vii) representative (leadership, direct affiliation with or formally represents interests of the specified hospital type) of a:

(I) children's hospital;

(II) behavioral health hospital;

(III) rural hospital;

(IV) urban hospital;

(V) state-owned teaching hospital;

(VI) public hospital;

(VII) private hospital;

(VIII) hospital that is part of a hospital system; and

(IX) hospital that is not part of a hospital system.

(2) Members are appointed for staggered terms so the terms of an equal or almost equal number of members expire on December 31 every even year. Regardless of the term limit, a member serves until his or her replacement is appointed. This ensures there is membership representation to conduct HPAC business.

(A) If a vacancy occurs, the executive commissioner may appoint a person to serve the unexpired portion of that term.

(B) Except as may be necessary to stagger terms, the term of each member is six years. A member may apply to serve a second term.

(g) Officers. HPAC selects a chair and vice chair of HPAC from among its members.

(1) The chair serves until March 1 of each even-numbered year. The vice chair serves until March 1 of each odd-numbered year.

(2) A member may serve as chair or vice chair for up to two terms in a row.

(h) Required training. Each member must complete training on relevant laws and rules, including this section and §351.801 of this division and Texas Government Code Chapters 551, 552, and 2110; the HHS Ethics Policy; the Advisory Committee Member Code of Conduct; and other relevant HHS policies. HHSC will provide the relevant training.

(i) Travel reimbursement. To the extent allowed by the current General Appropriations Act, an HPAC member may be reimbursed for his or her travel to and from meetings if funds are appropriated, available, and the member submits the request for travel reimbursement in accordance with the HHSC Travel Policy.

(j) Abolishment date. HPAC is abolished and this section expires on December 31, 2030, in compliance with Texas Government Code §2110.008.

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 August 10, 2026.

TRD-202603358
Karen Ray
Chief Counsel
Texas Health and Human Services Commission
Earliest possible date of adoption: September 20, 2026
For further information, please call: (512) 730-7475

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CHAPTER 353. MEDICAID MANAGED CARE
SUBCHAPTER M. HOME AND COMMUNITY BASED SERVICES IN MANAGED CARE

1 TAC §353.1155

The executive commissioner of the Texas Health and Human Services Commission (HHSC) proposes an amendment to §353.1155, concerning the Medically Dependent Children Program.

BACKGROUND AND PURPOSE

The purpose of the proposal is to add diversion slots and clinical criteria to the Medically Dependent Children Program (MDCP). Adding diversion slots allows HHSC to enroll eligible medically fragile children in the MDCP waiver before the child reaches the top of the interest list and without requiring admission to a nursing facility.

The proposed amendment supports HHSC's goal of providing home and community-based services in the most appropriate and cost-effective setting by expanding timely access to waiver services and reducing unnecessary institutionalization.

The proposed amendment does not change MDCP financial or functional eligibility criteria, service array, or service limits. Medicaid Buy-In for Children Program was removed from the rule for consistency with existing eligibility policy. HHSC also updated the rule for formatting, clarity, and consistency.

SECTION-BY-SECTION SUMMARY

The proposed amendment to §353.1155 adds criteria for MDCP as the diversion slot model is intended to strengthen the program's ability to meet its core mission of serving medically fragile children safely in the community. Additionally, edits correct out-of-date Texas Administrative Code citations and update the rule for formatting, clarity, and readability.

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 create new regulations;

(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 because the proposed rule does not require MDCP providers to alter their current business practices or impose new fees.

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

Emily Zalkovsky, Chief Medicaid and CHIP Services Officer, has determined that for each year of the first five years the rule is in effect, the public benefit will be that diversion slots will allow children with serious medical needs to access MDCP services immediately, without having to go through the interest list process or enter a nursing facility. By enabling earlier access to these services, the rule change helps families care for their children at home and may also reduce unnecessary nursing facility stays. Overall, these changes support HHSC's goal to provide services in the least restrictive and most cost-effective setting.

Victoria Grady has also determined that for the first five years the rule is in effect, there are no anticipated economic costs to people who are required to comply with the proposed rule because the proposed rule does not require MDCP providers to alter their current business practices or impose new fees.

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 26R040" 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; 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 amendment affects Texas Government Code §524.0151 and Texas Human Resources Code §32.021

§353.1155. Medically Dependent Children Program.

(a) In this section, medically fragile means a serious chronic physical condition that results in prolonged dependency on medical care. A person who is medically fragile requires daily skilled nursing intervention and is dependent upon medical devices and technology.

(b) [~~(a)~~] An MCO assesses a person's [~~an individual's~~] eligibility for MDCP.

(1) To be eligible for MDCP, a person [~~an individual~~] must:

(A) be under 21 years of age;

(B) live [~~reside~~] in Texas;

(C) meet the medical necessity level of care criteria required for [~~medical necessity for~~] nursing facility care admission as determined by HHSC;

(D) have an unmet need for support in the community that can be met through one or more MDCP services;

(E) choose MDCP as an alternative to nursing facility services, as described in 42 CFR §441.302(d);

(F) not be enrolled in one of the following Medicaid HCBS waiver programs approved by CMS:

(i) the Community Living Assistance and Support Services (CLASS) Program;

(ii) the Deaf Blind with Multiple Disabilities (DBMD) Program;

(iii) the Home and Community-based Services (HCS) Program;

(iv) the Texas Home Living (TxHmL) Program; or

(v) the Youth Empowerment Services waiver;

(G) live in:

(i) the person's [~~individual's~~] home; or

(ii) an agency foster home as defined in Texas Human Resource Code, §42.002, (relating to Definitions); and

(H) be determined by HHSC to be financially eligible for Medicaid under:

(i) Chapter 358 of this title (relating to Medicaid Eligibility for the Elderly and People with Disabilities); or[~~,~~]

(ii) Chapter 360 of this title (relating to Medicaid Buy-In Program)[~~, or Chapter 361 of this title (relating to Medicaid Buy-In for Children Program)~~].

(2) A person who meets the eligibility criteria in paragraph (1) of this subsection may be enrolled in MDCP in one of the following ways.

(A) The person reaches the top of the program interest list and HHSC assigns the person an available MDCP waiver slot.

(B) The person asks to enroll in MDCP while living in a nursing facility, is determined eligible for Medicaid nursing facility services, and HHSC assigns the person an available MDCP waiver slot before the person moves to the community.

(C) The person is determined to be too medically fragile to complete a stay in a nursing facility, there is an available diversion slot, and the person meets two or more of the following criteria:

(i) invasive mechanical ventilation (does not include continuous positive airway pressure (CPAP), bilevel positive airway pressure (BIPAP), or average volume-assure pressure support (AVAP));

(ii) functional tracheostomy (active route mechanical ventilation, routine suctioning and tracheostomy care);

(iii) renal dialysis;

(iv) 24-hour per day oxygen dependence;

(v) total nutrition (100% of caloric needs) via enteral tube feeding;

(vi) total parenteral nutrition;

(vii) congenital heart disease with heart failure requiring hospitalization in the last twelve months;

(viii) hospice;

(ix) solid organ or stem cell transplant within the last twelve months;

(x) non-invasive ventilation (includes BIPAP or Adaptive Ventilation Mode, but does not include CPAP) 20 or more hours per day;

(xi) three or more admissions to a medical facility for status epilepticus within the last twelve months; or

(xii) daily seizures with motor involvement requiring the use of at least one of the following interventions each day over 30 calendar days:

(I) rescue medications;

(II) assisted breathing;

(III) oxygen; or

(IV) manual vagus nerve stimulation activation.

(D) An HHSC Utilization Review nurse reviews the clinical information of the person applying for a diversion slot and, if the person described in subparagraph (C) of this paragraph does not meet at least two of the criteria identified in subparagraph (C) of this paragraph, the nurse sends an HHSC Physician Attestation for Diversion Slot form and documentation to an HHSC physician for review.

(E) An HHSC physician reviews the form and documentation described in subparagraph (D) of this paragraph and uses the physician's medical judgment to consider if the person is too medically fragile for an extended nursing facility stay and may be enrolled in MDCP when a diversion slot becomes available even if the person does not meet at least two of the criteria identified in subparagraph (C) of this paragraph.

(3) [~~(2)~~] If a person asking for enrollment in MDCP as described in subsection (b)(2)(B) of this section [~~An individual receiving Medicaid nursing facility services is approved for MDCP if the individual requests services while residing in a nursing facility and meets the eligibility criteria listed in paragraph (1) of this subsection. If an individual~~] is discharged from a nursing facility into a community setting before being determined eligible for Medicaid nursing facility services and MDCP, HHSC denies the person's [~~individual is denied immediate~~] enrollment in MDCP and places the person's name on the program interest list.

(c) [~~(b)~~] HHSC maintains a statewide interest list of persons [~~individuals~~] interested in receiving services through MDCP.

(1) A person, the person's medical consenter, or the person's legally authorized representative (LAR) may request that the person's [~~an individual's~~] name be added to the MDCP interest list by:

(A) calling HHSC toll-free 1-877-438-5658;

(B) submitting a written request to HHSC; or

(C) generating a referral through the YourTexasBenefits.com, Find Support Services screening and referral tool.

(2) [~~If a request is made in accordance with paragraph (1) of this subsection,~~] HHSC places the person's [~~adds an individual's~~] name on [~~to~~] the MDCP interest list if:

(A) the person, the person's medical consenter, or the person's LAR makes a request in accordance with paragraph (1) of this subsection; and

(B) [~~(A)~~] the person lives in [~~if the individual is a~~] Texas. [~~resident; and~~]

(3) [~~(B)~~] HHSC uses [~~using~~] the date HHSC receives the request in accordance with paragraph (1) of this subsection as the MDCP interest list date.

(4) [~~(3)~~] For a person [~~an individual~~] determined diagnostically or functionally ineligible during the enrollment process for the CLASS Program, DBMD Program, HCS Program, or TxHmL Program:

(A) if the person's [~~individual's~~] name is not on the MDCP interest list, the person, the person's medical consenter, or the person's LAR can ask HHSC to add [~~at the request of the individual or LAR, HHSC adds~~] the person's [~~individual's~~] name to the MDCP interest list using the [~~individual's~~] interest list date for the waiver program for which the person [~~individual~~] was determined ineligible as the MDCP interest list date;

(B) if the person's [~~individual's~~] name is on the MDCP interest list and the [~~individual's~~] interest list date for the waiver program for which the person [~~individual~~] was determined ineligible is an earlier [~~than the individual's MDCP interest list~~] date, the person, the person's medical consenter, or the person's LAR can ask [~~at the request of the individual or LAR,~~] HHSC to change the person's [~~changes the individual's~~] MDCP interest list date to the earlier [~~individual's~~] interest list date [~~for the waiver program for which the individual was determined ineligible~~]; or

(C) if the person's [~~individual's~~] name is on the MDCP interest list and the [~~individual's~~] MDCP interest list date is earlier than the [~~individual's~~] interest list date for the waiver program for which the person [~~individual~~] was determined ineligible, HHSC does not change the person's [~~individual's~~] MDCP interest list date.

(5) [~~(4)~~] A person [~~This paragraph applies to an individual who is~~] enrolled in MDCP who is found ineligible for MDCP [~~and,~~] because the person [~~individual~~] does not meet the medical necessity level of care criteria required [~~for medical necessity~~] for nursing facility care admission, is allowed to make a one-time request, or the person's medical consenter or the person's LAR is allowed to make a one-time request, for the person's name to be placed in the first position on the MDCP interest list. [~~determined ineligible for MDCP after November 30, 2019. The individual or the individual's LAR may request one time that HHSC add the individual's name to the first position on the MDCP interest list.~~]

(6) [~~(5)~~] A person [~~This paragraph applies to an individual who is~~] enrolled in MDCP who is found ineligible for MDCP [~~and,~~] because the person [~~individual~~] does not meet the medical necessity level of care criteria required [~~for medical necessity~~] for nursing facil-

ity care admission or the requirement to be under 21 years of age, is allowed to request, or the person's medical consenter or the person's LAR is allowed to request, for the person's [~~determined ineligible for MDCP after November 30, 2019. The individual or the individual's LAR may request that HHSC add the individual'~~s] name to be placed on the interest list for any of the following programs or change the person's [~~individual'~~s] interest list date for any of the following programs in accordance with:

(A) 26 [~~40~~] TAC §259.53 [~~§45.202~~] (relating to CLASS Interest List) for the CLASS Program;

(B) 26 [~~40~~] TAC §260.53 [~~§42.202~~] (relating to DBMD Interest List) for the DBMD Program;

(C) 26 [~~40~~] TAC §262.102 [~~§9.157~~] (relating to TxHmL [~~HCS~~] Interest List) for the TxHmL [~~HCS~~] Program; and

(D) 26 [~~40~~] TAC §263.103 [~~§9.566~~] (relating to HCS [~~TxHmL~~] Interest List) for the HCS [~~TxHmL~~] Program.

(7) [~~(6)~~] HHSC removes a person's [~~an individual'~~s] name from the MDCP interest list if:

(A) the person [~~individual~~] is deceased;

(B) the person [~~individual~~] is assessed for MDCP, is found not eligible for the program, [~~and determined to be ineligible~~] and has had a chance for [~~an opportunity to exercise the individual's right to~~] a fair hearing, as described in Chapter 357 of this title (relating to Hearings);

(C) the person [~~individual~~], the person's medical consenter, or the person's LAR requests in writing that HHSC remove the person's name [~~the individual's name be removed~~] from the interest list; or

(D) the person [~~individual~~] moves out of Texas, except if the person [~~unless the individual~~] is a military family member living outside of Texas as described in Texas Government Code §526.0602:

(i) while the military member is on active duty; or

(ii) for less than one year after the former military member's active duty ends.

(8) [~~(7)~~] A person whose name is removed from the MDCP interest list [~~An individual assessed for MCDP and determined to be ineligible,~~] as described in paragraph (7)(B) [~~(6)(B)~~] of this subsection, or the person's medical consenter or the person's LAR, may request that HHSC place the person's [~~to have the individual'~~s] name on [~~added to~~] the MDCP interest list in accordance with [as ~~described in~~] paragraph (1) of this subsection.

(d) [~~(c)~~] An MCO develops a person-centered individual service plan (ISP) for each person [~~member~~] in MDCP, and all applicable documentation, as described in the STAR Kids Handbook and the Uniform Managed Care Manual (UMCM).

(1) An ISP must:

(A) include services described in the waiver approved by CMS;

(B) include services necessary to protect a person's [~~member'~~s] health and welfare in the community;

(C) include services that supplement rather than supplant the person's [~~member'~~s] natural supports and other non-Medicaid supports and services for which the person [~~member~~] may be eligible;

(D) include services designed to prevent the person's [~~member'~~s] admission to an institution;

(E) include the most appropriate type and amount of services to meet the person's [~~member's~~] needs in the community;

(F) be reviewed and revised if the person's [~~member's~~] needs or natural supports change or at the request of the person, the person's medical consenter, or the person's [~~member or~~] LAR; and

(G) be cost effective.

(2) If a person's [~~member's~~] ISP exceeds 50 percent of the cost of the person's [~~member's~~] level of care in a nursing facility to safely serve the person's [~~member's~~] needs in the community, HHSC must review the circumstances and, when approved, provide funds through general revenue.

(e) [~~(d)~~] An MCO is responsible for conducting a reassessment and developing an ISP for each person's [~~member'~~s] continued eligibility for MDCP, in accordance with the policies and procedures outlined in the STAR Kids Handbook, UMCM, or materials designated by HHSC and in accordance with the timeframes outlined in the MCO's contract.

(f) [~~(e)~~] An MCO is responsible for authorizing a provider of a person's [~~member'~~s] choice to deliver services outlined in the person's [~~member'~~s] ISP.

(g) [~~(f)~~] A person [~~member~~] participating in MDCP has the same rights and responsibilities as any person [~~member~~] enrolled in managed care, as described in Subchapter C of this chapter (relating to Member Bill of Rights and Responsibilities), including the right to appeal a decision made by HHSC or an MCO and the right to a fair hearing, as described in Chapter 357 of this title.

(h) [~~(g)~~] HHSC conducts utilization reviews of MCOs providing MDCP services.

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 August 10, 2026.

TRD-202603359
Karen Ray
Chief Counsel
Texas Health and Human Services Commission
Earliest possible date of adoption: September 20, 2026
For further information, please call: (512) 438-2910

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TITLE 7. BANKING AND SECURITIES

PART 6. CREDIT UNION DEPARTMENT

CHAPTER 91. CHARTERING, OPERATIONS, MERGERS, LIQUIDATIONS

SUBCHAPTER E. DIRECTION OF AFFAIRS

7 TAC §91.501, §91.502

The Credit Union Commission proposes amendments to §91.501, Director Eligibility and Disqualification, and §91.502, Director/Committee Member Fees, Insurance, Reimbursable Expenses, and Other Authorized Expenditures.

EXPLANATION OF AND JUSTIFICATION FOR THE RULES. The proposed amendments were identified as a part of the

Credit Union Department's quadrennial rule review process. The amendments to §91.501 would add flexibility to the recordkeeping requirement for applications of new directors. The amendments to §91.502 would update the title of a rule referenced in the section.

COST TO REGULATED PERSONS. This rule proposal is not subject to Texas Government Code §2001.0045 concerning increasing costs to regulated persons because this agency is a self-directed semi-independent (SDSI) agency under Finance Code Chapter 16 and is therefore exempt under §2001.0045(c)(8).

GOVERNMENT GROWTH IMPACT STATEMENT. In compliance with Texas Government Code §2001.0221, the Department has prepared a government growth impact statement.

For each year of the first five years that the rules as amended will be in effect, the rules will not:

--create or eliminate a government program;

--require the creation of new employee positions or the elimination of existing employee positions;

--require an increase or decrease in future legislative appropriations to the Department;

--require an increase or decrease in fees paid to the Department;

--create new regulations;

--expand, limit, or repeal existing regulations;

--increase or decrease the number of individuals subject to the rule's applicability;

--positively or adversely affect this state's economy.

ENVIRONMENTAL RULE ANALYSIS. The proposed rules are not "major environmental rules" as defined by Government Code §2001.0225. The proposed rules are not specifically intended to protect the environment or to reduce risks to human health from environmental exposure. Therefore, a regulatory environmental analysis is not required.

FISCAL IMPACT ON STATE AND LOCAL GOVERNMENTS. Robert Etheridge, Commissioner, has determined that for the first five-year period the proposed amendments are in effect, there are no reasonably foreseeable implications relating to cost or revenues of state or local governments under Government Code §2001.024(a)(4) as a result of enforcing or administering these amendments as proposed.

PUBLIC BENEFIT/COST NOTE. Mr. Etheridge has determined, pursuant to Government Code §2001.024(a)(5), that for the first five-year period the amended rules are in effect, the public benefit of the amendments to §91.501 is streamlined recordkeeping by credit unions, and the public benefit of the amendments to §91.502 is accuracy in the rule. He has further determined there will be no probable economic cost to the credit union system or to persons required to comply with the rules.

IMPACT ON LOCAL EMPLOYMENT OR ECONOMY. There is no reasonably anticipated effect on a local economy for the first five years that the proposed amendments are in effect. Therefore, no economic impact statement, local employment impact statement, or regulatory flexibility analysis is required under Texas Government Code §§2001.022 or 2001.024(a)(6).

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS FOR SMALL BUSINESSES, MICROBUSINESSES, AND RURAL COMMUNITIES. Mr. Etheridge has also determined that for each year of the first five years the proposed amendments are in effect, there will be no reasonably forecasted adverse economic effect on small businesses, micro-businesses, or rural communities as a result of implementing these amendments, and, therefore, no regulatory flexibility analysis, as specified in Texas Government Code §2006.002, is required.

TAKINGS IMPACT ASSESSMENT. No private real property interests are affected by this proposal, and the proposal does not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action. Therefore, the amendments do not constitute a taking under Texas Government Code §2007.043.

REQUEST FOR PUBLIC COMMENT. The Department is requesting public comments on the proposed amendments and information related to the cost, benefit, or effect of the proposed rules, including any applicable data, research, or analysis, from any person required to comply with the proposed rule or any other interested person. Please 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. Written comments on the proposed amendments may be submitted in writing to Devon Bijansky, General Counsel, Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699 or by email to CUDMail@cud.texas.gov. To be considered, a written comment must be received within 30 days after publication of the proposal in the *Texas Register*.

STATUTORY AUTHORITY. The amendments are proposed pursuant to Texas Finance Code §15.402, which authorizes the Commission to adopt reasonable rules for administering Title 2, Chapter 15 and Title 3, Subtitle D of the Texas Finance Code, particularly §122.053, which sets forth the duties of directors; §122.054, which directs the commission to establish qualifications for a director and §122.062, which limits the compensation a director may receive for services.

STATUTORY SECTIONS AFFECTED. The specific sections affected by the amendments are Texas Finance Code §§122.053, 122.054, and 122.062.

§91.501. Director Eligibility and Disqualification.

(a) - (b) (No change.)

(c) Director application. Any member nominated for, or seeking election to, the board of directors shall submit a written application in such form as the credit union may prescribe. The application shall be submitted either to the nominating committee prior to its selection of nominees; or to the board chair within 30 days following the election of a member who was not nominated by the nominating committee or who was appointed by the board to fill a vacancy. The applications of the elected/appointed directors shall be incorporated into and made part of the minutes of either the first board meeting immediately preceding [~~following~~] the election/appointment of those directors or the first board meeting following the election/appointment. Applications of unsuccessful candidates shall be destroyed or returned upon request. The commissioner may review and require that changes be made to any application form, which is deemed inadequate or unfairly discriminates against certain classes of members.

(d) - (g) (No change.)

§91.502. Director/Committee Member Fees, Insurance, Reimbursable Expenses, and Other Authorized Expenditures.

(a) Expense reimbursement. A credit union may reimburse out-of-pocket travel and related expenses that are reasonable and appropriate for the business activity undertaken. A credit union shall adopt a written board policy to administer and control travel expenses paid or incurred in connection with directors or committee members carrying out official credit union business.

(b) Payment of fees. Subject to the provisions of this rule, a credit union may pay a reasonable meeting fee to any of its directors, honorary directors, advisory directors, (hereafter referred to as directors) or committee members for attending duly called meetings at which appropriate credit union business is conducted. Any credit union electing to pay any type of meeting fee shall annually disclose to the membership the fees paid in the prior calendar year and scheduled to be paid in the current calendar year. This disclosure may be provided to the members as part of the credit union's annual report as prescribed in §91.310 of this title (relating to Annual Report to Membership [~~annual report to membership~~]). A credit union, however, may not pay any meeting fees to a director or committee member if the credit union is operating under a Net Worth Restoration Plan; or an order issued under Finance Code §122.257 or §122.258.

(c) Enforcement Authority; Prohibition. The commissioner may prohibit or otherwise limit or restrict the payment of meeting fees to directors or committee members if, in the opinion of the commissioner, the credit union has paid, is paying, or is about to pay meeting fees that are excessive as defined in subsection (f) of this section.

(d) Use of credit union equipment. A credit union may provide personal computers, access to electronic mail, and other electronic conveniences to directors during their terms of office provided:

(1) the board of directors determines that the equipment and the electronic means are necessary and appropriate for the directors to fulfill their duties and responsibilities;

(2) the board of directors develops and maintains written policies and procedures regarding this matter; and

(3) the arrangement ceases immediately upon the person's leaving office.

(e) Insurance. A credit union may, in accordance with written board policy, provide health, life, accident, liability, or similar personal insurance protection for directors and committee members. The kind and amount of these insurance protections must be reasonable given the credit union's size, financial condition, and the duties of the director or committee member. The insurance protection must cease upon the director or committee member's leaving office, without providing residual benefits beyond those earned during the individual's term on the board or committee.

(f) Review by board. A credit union shall implement and maintain appropriate controls and other safeguards to prevent the payment of fees or expenses that are excessive or that could lead to material financial loss to the institution. At least annually, the board, in good faith, shall review the director/committee member fees and director/committee member-related expenses incurred, paid or reimbursed by the credit union and determine whether its policy continues to be in the best interest of the credit union. The Board's review shall be included as part of the minutes of the meeting at which the policy and the fees and expenses were studied. Fees and expenses shall be considered excessive when amounts paid are disproportionate to the services performed by a director or committee member, or unreasonable considering the financial condition of the institution and similar practices at credit unions of a comparable asset size, geographic location, and/or operational complexity.

(g) Guest travel. A credit union's board may authorize the payment of travel expenses that are reasonable in relation to the credit union's financial condition and resources for one guest accompanying a director or committee member to an approved conference or educational program. The payment will not be considered compensation for purposes of Finance Code §122.062 if:

(1) it is determined by the board to be necessary or appropriate in order to carry out the official business of the credit union; and

(2) it is in accordance with written board policies and procedures.

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 August 7, 2026.

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Robert Etheridge
Commissioner
Credit Union Department
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For further information, please call: (512) 837-9236

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SUBCHAPTER F. ACCOUNTS AND SERVICES

7 TAC §91.608, §91.610

The Credit Union Commission proposes amendments to §91.608, Confidentiality of Member Records; and §91.610, Safe Deposit Box Facilities.

EXPLANATION OF AND JUSTIFICATION FOR THE RULES. The proposed amendments were identified as a part of the Credit Union Department's quadrennial rule review process. The amendments to §91.608 would update a reference to the federal regulations. The amendments to §91.610 would update the references to the statute regarding imprinting of safe deposit keys to Chapter 125 of the Finance Code, which relates to credit unions, instead of Chapter 59, which relates to banks, and would delete certain provisions that are duplicative of or in conflict with the statute.

COST TO REGULATED PERSONS. This rule proposal is not subject to Texas Government Code §2001.0045 concerning increasing costs to regulated persons because this agency is a self-directed semi-independent (SDSI) agency under Finance Code Chapter 16 and is therefore exempt under §2001.0045(c)(8).

GOVERNMENT GROWTH IMPACT STATEMENT. In compliance with Texas Government Code §2001.0221, the Department has prepared a government growth impact statement.

For each year of the first five years that the rules as amended will be in effect, the rules will not:

--create or eliminate a government program;

--require the creation of new employee positions or the elimination of existing employee positions;

--require an increase or decrease in future legislative appropriations to the Department;

--require an increase or decrease in fees paid to the Department;

--create new regulations;

--expand, limit, or repeal existing regulations;

--increase or decrease the number of individuals subject to the rule's applicability;

--positively or adversely affect this state's economy.

ENVIRONMENTAL RULE ANALYSIS. The proposed rules are not "major environmental rules" as defined by Government Code §2001.0225. The proposed rules are not specifically intended to protect the environment or to reduce risks to human health from environmental exposure. Therefore, a regulatory environmental analysis is not required.

FISCAL IMPACT ON STATE AND LOCAL GOVERNMENTS. Robert Etheridge, Commissioner, has determined that for the first five-year period the proposed amendments are in effect, there are no reasonably foreseeable implications relating to cost or revenues of state or local governments under Government Code §2001.024(a)(4) as a result of enforcing or administering these amendments as proposed.

PUBLIC BENEFIT/COST NOTE. Mr. Etheridge has determined, pursuant to Government Code §2001.024(a)(5), that for the first five-year period the amended rules are in effect, the public benefit of the amendments is accuracy and conciseness of the rules. He has further determined there will be no probable economic cost to the credit union system or to persons required to comply with the rules.

IMPACT ON LOCAL EMPLOYMENT OR ECONOMY. There is no reasonably anticipated effect on a local economy for the first five years that the proposed amendments are in effect. Therefore, no economic impact statement, local employment impact statement, or regulatory flexibility analysis is required under Texas Government Code §§2001.022 or 2001.024(a)(6).

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS FOR SMALL BUSINESSES, MICROBUSINESSES, AND RURAL COMMUNITIES. Mr. Etheridge has also determined that for each year of the first five years the proposed amendments are in effect, there will be no reasonably forecasted adverse economic effect on small businesses, micro-businesses, or rural communities as a result of implementing these amendments, and, therefore, no regulatory flexibility analysis, as specified in Texas Government Code §2006.002, is required.

TAKINGS IMPACT ASSESSMENT. No private real property interests are affected by this proposal, and the proposal does not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action. Therefore, the amendments do not constitute a taking under Texas Government Code §2007.043.

REQUEST FOR PUBLIC COMMENT. The Department is requesting public comments on the proposed amendments and information related to the cost, benefit, or effect of the proposed rules, including any applicable data, research, or analysis, from any person required to comply with the proposed rule or any other interested person. Please 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. Written comments on the proposed amendments may be submitted in writing to Devon Bijansky, General Counsel, Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699 or by email to CUDMail@cud.texas.gov. To be considered, a written comment must be received within 30 days after publication of the proposal in the *Texas Register*.

STATUTORY AUTHORITY. The amendments are proposed pursuant to Texas Finance Code §15.402, which authorizes the Commission to adopt reasonable rules for administering Title 2, Chapter 15 and Title 3, Subtitle D (Chapters 121 through 149) of the Texas Finance Code; particularly §§125.402, which authorizes the Commission to adopt reasonable rules relating to confidentiality and disclosure of members' information, and 125.508, which establishes requirements related to imprinting of safe deposit box keys.

STATUTORY SECTIONS AFFECTED. The specific sections affected by the amendments are Texas Finance Code §§122.053, 122.054, 122.062, 125.402, and 125.508.

§91.608. Confidentiality of Member Records.

(a) - (b) (No change.)

(c) Privacy policy. Each credit union shall develop, implement and maintain a written policy on the protection of nonpublic personal information of individual members in its possession. This policy shall be consistent with the disclosure and reporting requirements applicable to federally insured credit unions as addressed in 12 C.F.R. part 1016 (Part 1016 of the Consumer Financial Protection Bureau regulations) [~~Part 716 of NCUA Rules and Regulations~~].

(d) (No change.)

§91.610. Safe Deposit Box Facilities.

(a) Purpose. Finance Code §125.508 [~~§59.110~~] requires credit unions to imprint keys issued to safe deposit boxes with the institution's routing number. In addition, it requires a report to the Department of Public Safety if the routing number is altered or defaced so that the correct routing number is illegible. The purpose of this section is to clarify the requirements of the noted section of the Finance Code.

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

(1) Credit union--This term includes all state or federal credit unions that have been assigned a routing number unique to that institution.

(2) Routing number--The number printed on the face of a share draft or check in fractional form or in nine-digit form that identifies a paying financial institution.

(c) Imprinting requirements. A credit union which has been issued a routing number shall imprint that routing number on safe deposit box keys on either the head of the key or the shank of the key if there is adequate room. The typical locations to be used are indicated in the following instructions and diagram. The imprint can be made anywhere on the key that has the required space available. When positioning the die on the key, be careful to place the die on the key where it will imprint on a flat surface and not in the area of the key cuts or on any of the shank ridges or grooves. Imprinting in these areas may interfere with the proper working of the key in the lock and may cause damage. In the event these standard areas for the location of the imprint are unavailable, either because of grooves on the key shank or the fact that the head of the key already has names and other numbers imprinted on it, then the credit union may attach to the key a tag imprinted with the routing number. The tag used must be of such a nature as to be secure. Thus, a paper or cardboard tag or a tag affixed with string will not be acceptable. However, any other medium such as plastic or metal which can retain an imprint of a number shall be acceptable. The tag may be

attached in any way to assure its affixation to the key. Typically, this will mean inserting the tag or a device to affix the tag through the hole in the head of the key normally used for placing keys on key chains. The tag method shall not be used if there is adequate room on the key itself for imprinting the numbers. There are four standard areas for the location of the imprinted routing number. These include: the head of the key, the shank of the key, and either place on the reverse side of the key. The standard imprint areas are shown as follows.
Figure: 7 TAC §91.610(c) (No change.)

(d) Branch designation. A credit union may, but is not required to, add a three-digit branch designation to its routing number. Thus, the main credit union facility should receive the designation "001" and branch facilities should receive numbers consecutively beginning with "002" with successive numbers as needed. However, the credit union may control the branch numbering system used provided that the credit union maintains a master list of branch designations used for this purpose. The master list should be maintained at the main office of the credit union and shall include the three-digit branch designation and address of facility. The credit union then may imprint safe deposit box keys or tags with the routing number plus three-digit branch designation for full identification of the facility.

(e) Report of defaced or altered key. A credit union that submits a report to the Department of Public Safety pursuant to Finance Code §125.508 shall retain a copy of the report for a period of three years. [~~Within 10 days after an officer or employee of a credit union observes that a key used to access a safe deposit box has had the routing number altered or defaced or the tag removed, a report shall be prepared of such incident. The report shall be on a form promulgated by the Credit Union Department in the form of the attached Exhibit A. The report should be submitted to the Department of Public Safety, Attention: Criminal Law Enforcement, Box 4087, Austin, Texas 78773-0001. The report should be mailed no later than ten days after the incident. The credit union should retain one copy of the incident report for a period of three years. Nothing in this rule nor in the Finance Code §59.110 shall require a credit union to inspect routing numbers imprinted on a key or an attached tag to determine if the number has been altered or defaced.~~]

(f) Effective date; applicability to existing keys. A credit union must imprint all safe deposit box keys on or after September 1, 1992. Additionally, the imprinting requirement applies to all keys issued prior to September 1, 1992. However, keys for boxes rented prior to September 1, 1992, need not be imprinted with the routing number unless and until a member presents a safe deposit box key at a credit union for access to a box. Nothing in this rule or the Finance Code §125.508 [~~§59.110~~] shall be construed to require a credit union to provide notice to its safe deposit box users or to otherwise require such members to present their keys for imprinting. However, on the first date after September 1, 1992, that a member presents a key which has not been imprinted, the credit union shall imprint the key with the routing numbers as required by Finance Code §125.508 [~~§59.110~~].

(g) Effect of change in routing number. In the event a credit union's routing number is changed as a result of a merger, acquisition, or other change, safe deposit box keys need not be replaced with a new routing number provided that the credit union maintains a master list of the routing numbers used to imprint keys.
[~~Figure: 7 TAC §91.610(g)~~]

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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Robert Etheridge
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TITLE 13. CULTURAL RESOURCES

PART 1. TEXAS STATE LIBRARY AND ARCHIVES COMMISSION

CHAPTER 2. GENERAL POLICIES AND PROCEDURES

SUBCHAPTER A. PRINCIPLES AND PROCEDURES OF THE COMMISSION

13 TAC §2.60

The Texas State Library and Archives Commission proposes to amend Texas Administrative Code, Title 13, Part 1, Chapter 2, Subchapter A, §2.60, Friends Groups.

BACKGROUND. The commission recently concluded the first phase of a Regulatory Efficiency Review conducted by the Texas Regulatory Efficiency Office. As a result of this review, the commission, with the assistance of that office, has identified opportunities to simplify, streamline, and clarify many existing rules.

As part of this comprehensive review, the commission evaluated §2.61 (relating to Private Organizations or Donors), which was first adopted in 2007 to provide requirements regarding the relationship between the commission and its officers and employees and private donors and the acceptance of gifts from private donors. Section 2255.001 of the Government Code requires state agencies to adopt rules governing the relationship between a private donor or organization that is designed to further the purposes and duties of the agency and the agency and its employees. These rules must address all aspects of conduct of the agency and its employees in the relationship, including (1) the administration and investment of funds received by the organization for the benefit of the agency; (2) use of an employee or property of the agency by the donor or organization; (3) service by an officer or employee of the agency as an officer or director of the donor or organization; and (4) monetary enrichment of an officer of employee of the agency by the donor or organization. Upon review, the commission has determined that the requirements of Government Code, §2255.001 were already satisfied by §2.60 and proposed the repeal of §2.61 in this same issue of the *Texas Register*.

The commission now proposes to amend §2.60 by adding "private donors" to the section heading and subsections (b), (c), and (d). This amendment will ensure it is clear that §2.60 applies to both friends groups (private organizations) and private donors, as required by Government Code, §2255.001.

FISCAL IMPACT. Donna Osborne, Chief Financial Officer, has determined that for each of the first five years the proposed amendment is in effect, there will not be a fiscal impact on state or local government.

PUBLIC BENEFIT AND COSTS. Ms. Osborne has determined that for the first five-year period the rule as proposed for amendment is in effect, the public benefit will be a more concise and efficient chapter of regulations in the Texas Administrative Code. There are no anticipated economic costs to persons required to comply with the amendment.

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

SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT STATEMENT. There will be no adverse economic effect on small businesses, micro-businesses, or rural communities; therefore, a regulatory flexibility analysis under Government Code §2006.002 is not required.

COST INCREASE TO REGULATED PERSONS. The rule as proposed for amendment does not impose or increase a cost on regulated persons, including another state agency, a special district, or a local government. Therefore, the commission is not required to take any further action under Government Code §2001.0045.

GOVERNMENT GROWTH IMPACT STATEMENT. In compliance with Government Code §2001.0221, the commission provides the following government growth impact statement. For each year of the first five years the rule as proposed for amendment will be in effect, the commission has determined the following:

1. The proposed amendment will not create or eliminate a government program;

2. Implementation of the rule as proposed for amendment will not require the creation of new employee positions or the elimination of existing employee positions;

3. Implementation of the rule as proposed for amendment will not require an increase or decrease in future legislative appropriations to the commission;

4. The proposal will not require an increase or decrease in fees paid to the commission;

5. The proposal will not create new regulations;

6. The proposal will not repeal an existing regulation;

7. The proposal will not increase or decrease the number of individuals subject to the applicability of the rule; and

8. The proposal will not positively or adversely affect the state economy.

TAKINGS IMPACT ASSESSMENT. No private real property interests are affected by this proposal, and the proposal does not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action. Therefore, the proposed amendment does not constitute a taking under Government Code §2007.043.

REQUEST FOR IMPACT INFORMATION. The commission 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 amendments, including any applicable data, research, or analysis. Requested information may be submitted to Donna Osborne, Chief Financial Officer, Texas State Library and Archives Commission, P.O. Box 12927, Austin, Texas 78711, or via email at rules@tsl.texas.gov. Requested information must be received no later than 30 days from the date of publication in the *Texas Register*.

REQUEST FOR PUBLIC COMMENT. Written comments on the proposed amendment may be submitted to Sarah Swanson, General Counsel, Texas State Library and Archives Commission, P.O. Box 12927, Austin, Texas 78711, or via email at rules@tsl.texas.gov. To be considered, a written comment must be received no later than 30 days from the date of publication in the *Texas Register*.

STATUTORY AUTHORITY. The amendment is proposed under Government Code §441.006, which provides the commission with the authority to govern the Texas State Library and Archives Commission and to adopt rules for the administration of the duties of the agency; and Government Code §2255.001, which requires state agencies to adopt rules governing the relationship between a private donor or organization that is designed to further the purposes and duties of the agency and the agency and its employees.

CROSS REFERENCE TO STATUTE. Government Code Chapters 441, 575, and 2255.

§2.60. Friends Groups and Private Donors.

(a) The commission may designate nonprofit organizations that are organized to raise funds and provide services and other benefits to the agency as a "friend" of the commission. A friends group must submit copies of its charter and bylaws or other organizational documents to the commission for review and approval. Upon designation as a friend of the commission and for so long as such designation exists, the commission may recognize a friends group. Designation as a "friend" shall be reviewed periodically but not less than once every five years.

(b) Funds accepted by friends groups or private donors for the benefit of the commission to support the purposes and programs of the commission are to be managed as reasonably prudent persons would manage funds if acting on their own behalf. Such funds are to be accounted for according to generally accepted accounting principles. A financial report shall be prepared at least annually and made available to the public upon request.

(c) The commission may authorize reasonable use of agency employees, equipment, or property by recognized friends groups or private donors in order to further or support the purposes or programs of the commission, provided such usage is commensurate with the benefit received or to be received by the commission. Agency employees shall receive no compensation from the friends groups or private donors for such service.

(d) A commission member or agency employee may not serve as an officer or director of a friends group or private donor. The commission will designate not more than one of its members to serve as liaison to each friends group or private donor.

(e) Nothing in this section shall supersede any rule or statute regulating the conduct of an employee of a state agency or the procedures of a state agency. To the extent of any conflict, the other rule or statute shall prevail.

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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Sarah I. Swanson
General Counsel
Texas State Library and Archives Commission
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For further information, please call: (512) 463-5460

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13 TAC §2.61

The Texas State Library and Archives Commission proposes the repeal of Texas Administrative Code, Title 13, Part 1, Chapter 2, Subchapter A, §2.61, Private Donors.

BACKGROUND. The commission recently concluded the first phase of a Regulatory Efficiency Review conducted by the Texas Regulatory Efficiency Office. As a result of this review, the commission, with the assistance of that office, has identified opportunities to simplify, streamline, and clarify many existing rules.

As part of this comprehensive review, the commission evaluated §2.61, which was first adopted in 2007 to provide requirements regarding the relationship between the commission and its officers and employees and private donors and the acceptance of gifts from private donors. Section 2255.001 of the Government Code requires state agencies to adopt rules governing the relationship between a private donor or organization that is designed to further the purposes and duties of the agency and the agency and its employees. These rules must address all aspects of conduct of the agency and its employees in the relationship, including (1) the administration and investment of funds received by the organization for the benefit of the agency; (2) use of an employee or property of the agency by the donor or organization; (3) service by an officer or employee of the agency as an officer or director of the donor or organization; and (4) monetary enrichment of an officer of employee of the agency by the donor or organization. Upon review, the commission has determined that the requirements of Government Code, §2255.001 are satisfied by another existing rule, §2.60 (relating to Friends Groups). This existing rule clearly addresses each of the requirements in statute with respect to private organizations. Therefore, the commission has determined that the provisions of §2.61 are not necessary because §2.60 (relating to Friends Groups) sufficiently addresses the statutory requirements. In addition, the other provisions currently within §2.61 related to the use of funds by the agency and the acceptance of gifts by the commission are governed by existing state law. Therefore, the commission finds it appropriate to repeal §2.61 to reduce regulatory redundancy and improve the overall efficiency of the Administrative Code.

However, in a separate rulemaking in this issue of the *Texas Register*, the commission proposes to amend §2.60 by adding "private donors" to the section heading and subsections (b), (c), and (d). This amendment ensures it is clear that §2.60 applies to both friends groups (private organizations) and private donors, as required by Government Code §2255.001.

FISCAL IMPACT. Donna Osborne, Chief Financial Officer, has determined that for each of the first five years the proposed repeal is in effect, there will not be a fiscal impact on state or local government.

PUBLIC BENEFIT AND COSTS. Ms. Osborne has determined that for the first five-year period the repeal is in effect, the public benefit will be a more concise and efficient Administrative Code. There are no anticipated economic costs to persons required to comply with the repeal.

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

SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT STATEMENT. There will be no adverse economic effect on small businesses, micro-businesses, or rural communities; therefore, a regulatory flexibility analysis under Government Code §2006.002 is not required.

COST INCREASE TO REGULATED PERSONS. The rule as proposed for repeal does not impose or increase a cost on regulated persons, including another state agency, a special district, or a local government. Therefore, the commission is not required to take any further action under Government Code §2001.0045.

GOVERNMENT GROWTH IMPACT STATEMENT. In compliance with Government Code §2001.0221, the commission provides the following government growth impact statement. For each year of the first five years the rule as proposed for repeal will be in effect, the commission has determined the following:

1. The proposed repeal will not create or eliminate a government program;

2. Implementation of the rule as proposed for repeal will not require the creation of new employee positions or the elimination of existing employee positions;

3. Implementation of the rule as proposed for repeal will not require an increase or decrease in future legislative appropriations to the commission;

4. The proposal will not require an increase or decrease in fees paid to the commission;

5. The proposal will not create new regulations;

6. The proposal will repeal an existing regulation;

7. The proposal will not increase or decrease the number of individuals subject to the applicability of the rule; and

8. The proposal will not positively or adversely affect the state economy.

TAKINGS IMPACT ASSESSMENT. No private real property interests are affected by this proposal, and the proposal does not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action. Therefore, the proposed repeal does not constitute a taking under Government Code §2007.043.

REQUEST FOR IMPACT INFORMATION. The commission 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 amendments, including any applicable data, research, or analysis. Requested information may be submitted to Donna Osborne, Chief Financial Officer, Texas State Library and Archives Commission, P.O. Box 12927, Austin, Texas 78711, or via email at rules@tsl.texas.gov. Requested information must be received no later than 30 days from the date of publication in the *Texas Register*.

REQUEST FOR PUBLIC COMMENT. Written comments on the proposed repeal may be submitted to Sarah Swanson, General Counsel, Texas State Library and Archives Commission, P.O. Box 12927, Austin, Texas 78711, or via email at rules@tsl.texas.gov. To be considered, a written comment must be received no later than 30 days from the date of publication in the *Texas Register*.

STATUTORY AUTHORITY. The repeal is proposed under Government Code §441.006, which provides the commission with the authority to govern the Texas State Library and Archives Commission and to adopt rules for the administration of the duties of the agency.

CROSS REFERENCE TO STATUTE. Government Code Chapter 441.

§2.61. Private Donors.

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 August 6, 2026.

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For further information, please call: (512) 463-5460

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CHAPTER 6. STATE RECORDS

SUBCHAPTER A. RECORDS RETENTION SCHEDULING

13 TAC §6.7

The Texas State Library and Archives Commission proposes to amend Texas Administrative Code, Title 13, Part 1, Chapter 6, Subchapter A, §6.7, Destruction of State Records.

BACKGROUND. The commission recently concluded the first phase of a Regulatory Efficiency Review conducted by the Texas Regulatory Efficiency Office. As a result of this review, the commission, with the assistance of that office, has identified opportunities to simplify, streamline, and clarify many existing rules.

As part of this comprehensive review, the commission evaluated §6.7 (relating to Destruction of State Records), which was first adopted in 1994 and last amended in 2005 to address the mandatory authorization process required before certain state records can be destroyed. Section 441.187 of the Government Code requires state agencies to secure approval from the director and librarian before destroying a state record if the record does not appear on the agency's approved records retention schedule.

Upon review, the commission has determined that §6.7 could be simplified by removing excess language that merely restates the statutory requirements. The commission now proposes to amend §6.7 by simplifying the language, ensuring that a state agency is aware it must receive written authorization from the director and librarian before destroying a state record if that record does not appear on the agency's approved records retention schedule. The proposed amendment also adds the specific statutory reference to the rule for additional clarity and transparency. The proposed amendment will not change any process at the commission - only regulatory language.

FISCAL IMPACT. Craig Kelso, State and Local Records Management Division Director, has determined that for each of the first five years the proposed amendment is in effect, there will not be a fiscal impact on state or local government.

PUBLIC BENEFIT AND COSTS. Mr. Kelso has determined that for the first five-year period the rule as proposed for amendment is in effect, the public benefit will be a more concise and efficient chapter of regulations in the Texas Administrative Code. There are no anticipated economic costs to persons required to comply with the amendment.

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

SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT STATEMENT. There will be no adverse economic effect on small businesses, micro-businesses, or rural communities; therefore, a regulatory flexibility analysis under Government Code §2006.002 is not required.

COST INCREASE TO REGULATED PERSONS. The rule as proposed for amendment does not impose or increase a cost on regulated persons, including another state agency, a special district, or a local government. Therefore, the commission is not required to take any further action under Government Code §2001.0045.

GOVERNMENT GROWTH IMPACT STATEMENT. In compliance with Government Code §2001.0221, the commission provides the following government growth impact statement. For each year of the first five years the rule as proposed for amendment will be in effect, the commission has determined the following:

1. The proposed amendment will not create or eliminate a government program;

2. Implementation of the rule as proposed for amendment will not require the creation of new employee positions or the elimination of existing employee positions;

3. Implementation of the rule as proposed for amendment will not require an increase or decrease in future legislative appropriations to the commission;

4. The proposal will not require an increase or decrease in fees paid to the commission;

5. The proposal will not create new regulations;

6. The proposal will not repeal an existing regulation;

7. The proposal will not increase or decrease the number of individuals subject to the applicability of the rule; and

8. The proposal will not positively or adversely affect the state economy.

TAKINGS IMPACT ASSESSMENT. No private real property interests are affected by this proposal, and the proposal does not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action. Therefore, the proposed amendment does not constitute a taking under Government Code §2007.043.

REQUEST FOR IMPACT INFORMATION. The commission 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 amendments, including any applicable data, research, or analysis. Requested information may be submitted to Craig Kelso, State and Local Records

Management Division Director, Texas State Library and Archives Commission, P.O. Box 12927, Austin, Texas 78711, or via email at rules@tsl.texas.gov. Requested information must be received no later than 30 days from the date of publication in the *Texas Register*.

REQUEST FOR PUBLIC COMMENT. Written comments on the proposed amendment may be submitted to Sarah Swanson, General Counsel, Texas State Library and Archives Commission, P.O. Box 12927, Austin, Texas 78711, or via email at rules@tsl.texas.gov. To be considered, a written comment must be received no later than 30 days from the date of publication in the *Texas Register*.

STATUTORY AUTHORITY. The amendment is proposed under Government Code §441.187, which prohibits a state agency from destroying a state record without the prior approval of the state records administrator; Government Code §441.182, which tasks the commission with establishing an efficient and economical state records management program; and Government Code §441.006, which provides the commission with the general authority to adopt rules for the administration of the duties of the agency.

CROSS REFERENCE TO STATUTE. Government Code Chapter 441, Subchapter L.

§6.7. Destruction of State Records.

<u>If a state record does not appear on a state agency's approved records retention schedule, the state agency must obtain written authorization from the director and librarian before destroying the state record, as provided by Government Code, §441.187(a).</u>

[~~(a) Without a certified records retention schedule, a state agency must request authorization from the director and librarian for the destruction of any state record.~~]

[~~(b) A state agency with a certified records retention schedule must request authorization from the director and librarian for the destruction of any state record that does not appear on the certified schedule or a certified amendment to the schedule.~~]

[~~(c) Requests for authorization for the destruction of state records shall be in a form and manner prescribed by the state records administrator.~~]

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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Sarah I. Swanson
General Counsel
Texas State Library and Archives Commission
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For further information, please call: (512) 463-5460

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SUBCHAPTER C. STANDARDS AND PROCEDURES FOR MANAGEMENT OF ELECTRONIC RECORDS

13 TAC §6.98

The Texas State Library and Archives Commission proposes the repeal of Texas Administrative Code, Title 13, Part 1, Chapter 6, Subchapter C, §6.98, concerning the Uniform Electronic Transactions Act (UETA).

BACKGROUND. The commission recently concluded the first phase of a Regulatory Efficiency Review conducted by the Texas Regulatory Efficiency Office. As a result of this review, the commission, with the assistance of that office, has identified opportunities to simplify, streamline, and clarify many existing rules.

As part of this comprehensive review, the commission evaluated §6.98 (relating to Uniform Electronic Transactions Act (UETA)), which was adopted in 2017 to provide guidelines regarding the use of electronic records and electronic signatures by state agencies. Business and Commerce Code Chapter 322 (Uniform Electronic Transactions Act) sets forth the comprehensive, statewide statutory framework governing electronic records, signatures, and contracts. In addition, the Department of Information Resources has adopted guidelines for the management of electronic transactions and signed records in the Texas Administrative Code, Title 1, Part 10, Chapter 203, Management of Electronic Transactions and Signed Records. Upon review, the commission has determined that the provisions of §6.98 are redundant because the uniform statutory requirements and protections established directly under Business and Commerce Code Chapter 322 and the regulations in the Texas Administrative Code referenced above thoroughly govern and support these transactions. Therefore, the commission finds it appropriate to repeal §6.98 to reduce regulatory redundancy, streamline agency regulations, and improve the overall efficiency of the Texas Administrative Code.

FISCAL IMPACT. Craig Kelso, State and Local Records Management Division Director, has determined that for each of the first five years the proposed repeal is in effect, there will not be a fiscal impact on state or local government.

PUBLIC BENEFIT AND COSTS. Mr. Kelso has determined that for the first five-year period the repeal is in effect, the public benefit will be a more concise and efficient Administrative Code. There are no anticipated economic costs to persons required to comply with the repeal.

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

SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT STATEMENT. There will be no adverse economic effect on small businesses, micro-businesses, or rural communities; therefore, a regulatory flexibility analysis under Government Code §2006.002 is not required.

COST INCREASE TO REGULATED PERSONS. The rule as proposed for repeal does not impose or increase a cost on regulated persons, including another state agency, a special district, or a local government. Therefore, the commission is not required to take any further action under Government Code §2001.0045.

GOVERNMENT GROWTH IMPACT STATEMENT. In compliance with Government Code §2001.0221, the commission provides the following government growth impact statement. For each year of the first five years the rule as proposed for repeal will be in effect, the commission has determined the following:

The proposed repeal will not create or eliminate a government program;

Implementation of the rule as proposed for repeal will not require the creation of new employee positions or the elimination of existing employee positions;

Implementation of the rule as proposed for repeal will not require an increase or decrease in future legislative appropriations to the commission;

The proposal will not require an increase or decrease in fees paid to the commission;

The proposal will not create new regulations;

The proposal will repeal an existing regulation;

The proposal will not increase or decrease the number of individuals subject to the applicability of the rule; and

The proposal will not positively or adversely affect the state economy.

TAKINGS IMPACT ASSESSMENT. No private real property interests are affected by this proposal, and the proposal does not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action. Therefore, the proposed repeal does not constitute a taking under Government Code §2007.043.

REQUEST FOR IMPACT INFORMATION. The commission 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 repeal, including any applicable data, research, or analysis. Requested information may be submitted to Craig Kelso, State and Local Records Management Division Director, Texas State Library and Archives Commission, P.O. Box 12927, Austin, Texas, 78711, or via email at rules@tsl.texas.gov. Requested information must be received no later than 30 days from the date of publication in the *Texas Register*.

REQUEST FOR PUBLIC COMMENT. Written comments on the proposed repeal may be submitted to Sarah Swanson, General Counsel, Texas State Library and Archives Commission, P.O. Box 12927, Austin, Texas, 78711, or via email at rules@tsl.texas.gov. To be considered, a written comment must be received no later than 30 days from the date of publication in the *Texas Register*.

STATUTORY AUTHORITY. The repeal is proposed under Government Code §441.006, which provides the commission with the authority to govern the Texas State Library and Archives Commission and to adopt rules for the administration of the duties of the agency.

CROSS REFERENCE TO STATUTE. Government Code Chapter 441.

§6.98. Uniform Electronic Transactions Act (UETA).

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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Sarah I. Swanson
General Counsel
Texas State Library and Archives Commission
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TITLE 19. EDUCATION

PART 2. TEXAS EDUCATION AGENCY

CHAPTER 61. SCHOOL DISTRICTS
SUBCHAPTER AA. COMMISSIONER'S RULES ON SCHOOL FINANCE

19 TAC §61.1010

The Texas Education Agency (TEA) proposes an amendment to §61.1010, concerning additional state aid for school districts that contract to partner to operate a district campus. The proposed amendment would update the list of exclusions to align the rule with statute and changes made by House Bill (HB) 2, 89th Texas Legislature, Regular Session, 2025, and reorder the list for clarity.

BACKGROUND INFORMATION AND JUSTIFICATION: Section 61.1010 provides an entitlement through the Foundation School Program for school districts that enter contracts to partner to operate a district campus under Texas Education Code (TEC), §11.174 and §11.174(b).

The proposed amendment would add the sparsity adjustment under TEC, §48.052, to the list of exclusions under subsection (e) because HB 2593, 84th Texas Legislature, Regular Session, 2015, stated that the adjustment only applies to school districts with very small student populations.

HB 2, 89th Texas Legislature, Regular Session, 2025, removed the New Tech Network from TEC, §48.106. The proposed amendment to §61.1010(e)(1) would remove the reference to the New Tech Network to align with the bill.

HB 2, 89th Texas Legislature, Regular Session, 2025, recodified and transferred the School Safety Allotment from TEC, §48.115 (Subchapter C), to TEC, §48.160 (Subchapter D). The proposed amendment would remove the School Safety Allotment from §61.1010(e)(5) because §61.1010(c)(1)(B) does not include TEC, §48.160, allotments.

HB 2, 89th Texas Legislature, Regular Session, 2025, repealed TEC, §48.114, which includes the Mentor Safety Allotment, effective September 1, 2026. The proposed amendment would remove the Mentor Safety Allotment from §61.1010(e)(4) to align the rule with the bill.

The proposed amendment would also reorder the list to match the numerical order of the authority that supports each exclusion.

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

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

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

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

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

GOVERNMENT GROWTH IMPACT: TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would limit an existing regulation by removing references related to sources of funding.

It would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not create a new regulation; would not expand or repeal an existing regulation; would not 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. Copeland has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposal would be ensuring the rule aligns with statute. 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 21, 2026, and ends September 21, 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 21, 2026. A form for submitting public comments is available on the TEA website at https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_(TAC)/Proposed_Commissioner_of_Education_Rules/.

STATUTORY AUTHORITY. The amendment is proposed under TEC, §29.934, as amended by HB 2, 89th Texas Legislature, Regular Session, 2025, which enables a local education agency to apply for a campus to become designated as a resource campus if the campus has received an overall performance rating of D, F, or an overall performance rating of "Not Rated" for three years over a 10-year period of time; TEC, §48.052, which provides additional funding to school districts with very low student populations; TEC, §48.102, as amended by Senate Bill (SB) 568 and HB 2, 89th Texas Legislature, Regular Session, 2025, which provides school systems with an annual allotment for special education; TEC, §48.106, as amended by HB 2 and HB 120, 89th Texas Legislature, Regular Session, 2025, which provides school systems with an annual allotment for career and technology education; TEC, §48.160, as transferred, redesignated, and amended by HB 2, HB 121, and SB 260, 89th Texas Legislature, Regular Session, 2025, which provides school systems with an annual allotment for school safety purposes; TEC, §48.252, which authorizes the commissioner of education to adopt rules necessary for the implementation of an entitlement for school districts that enter into a contract to operate a district campus under TEC, §11.174 or §11.157(b), or school districts that operate a resource campus under TEC, §29.934; and HB 2, 89th Texas Legislature, Regular Session, 2025, which repeals TEC, §48.114, effective September 1, 2026. TEC, §48.114, provides school systems with an annual allotment for a mentoring program for classroom teachers.

CROSS REFERENCE TO STATUTE. The amendment implements TEC, §29.934, as amended by HB 2, 89th Texas Legislature, Regular Session, 2025; §48.052; §48.102, as amended by SB 568 and HB 2, 89th Texas Legislature, Regular Session, 2025; §48.106, as amended by HB 2 and HB 120, 89th Texas Legislature, Regular Session, 2025; §48.160, as transferred, redesignated, and amended by HB 2, HB 121, and SB 260, 89th Texas Legislature, Regular Session, 2025; and §48.252; and HB 2, 89th Texas Legislature, Regular Session, 2025, which repeals TEC, §48.114, effective September 1, 2026.

§61.1010. Additional State Aid for School Districts that Contract to Partner to Operate a District Campus.

(a) General provisions. This section implements Texas Education Code (TEC), §48.252 (School District Entitlement for Certain Students), which provides for additional funding for a school district that has entered into a contract to partner to operate a district campus under TEC, §11.174; a school district that has entered into a contract with a partner to jointly operate a campus or campus program under TEC, §11.157(b); or a school district that operates a resource campus as provided by TEC, §29.934.

(b) Definitions. The following words and terms, when used in this section, shall have the following meanings.

(1) Contracted campus--A campus for which the board of trustees of a school district has contracted to partner to operate a campus under TEC, §11.174 or §11.157(b).

(2) Contracted campus program--A program on a campus operated by a charter school under TEC, Chapter 12, Subchapter D, for which the board of trustees of a school district has contracted to jointly operate the program under TEC, §11.157(b).

(3) Resource campus--A campus designated by the commissioner of education to operate as a campus under TEC, §29.934.

(c) Entitlement.

(1) In the fall of each school year, as part of the settle-up process for the preceding school year, the Texas Education Agency (TEA) will use the attendance reported through the Texas Student Data System Public Education Information Management System (TSDS PEIMS) summer data submission, as well as campus-level data regarding the number of students eligible for compensatory education funding under TEC, §48.104, from the TSDS PEIMS fall submission, to calculate the following for a contracted campus, contracted campus program, or resource campus:

(A) the entitlement for each student in average daily attendance at the contracted campus, contracted campus program, or resource campus, as if the campus, contracted campus program, or resource campus were a charter school under TEC, §12.106, using the state average basic allotment as defined under TEC, §12.106(a-1), and state average tax effort for enrichment funding as defined by TEC, §12.106(a-2);

(B) the entitlement for each student in average daily attendance at the contracted campus, contracted campus program, or resource campus under TEC, Chapter 48, Subchapters B, C, and E, as adjusted by subsection (d) of this section, using the district's basic allotment and enrichment tax effort without a local share component for those entitlements; and

(C) any positive difference that results from subtracting the amount calculated under subparagraph (B) of this paragraph from the amount calculated under subparagraph (A) of this paragraph, which shall be added to the district's Foundation School Fund Allotment.

(2) Campus program attendance must be reported on a separate track to receive funding.

(d) Estimates. School districts will be provided with estimated funding during a school year for eligible contracted campuses, contracted campus programs, or resource campuses based on the prior year's attendance data using the same methodology used in subsection (c)(1) of this section to calculate the entitlement. The final entitlement will be based on data from the current school year as provided for in subsection (c)(1) of this section. Any difference from the estimated entitlement will be addressed as part of the Foundation School Program settle-up process according to the provisions of TEC, §48.272.

(e) Exclusions. For purposes of the calculation in subsection (c) of this section, the following allotments shall be excluded from the entitlement:

(1) the Sparsity Adjustment under TEC, §48.052;

(2) [~~(1)~~] the Career and Technology Education Allotment under TEC, §48.106(a-1), for students enrolled in P-TECH [~~or New Tech Network~~] campuses;

(3) [~~(2)~~] the College, Career, or Military Readiness Outcomes Bonus under TEC, §48.110;

[~~(3) the Teacher Incentive Allotment under TEC, §48.112;~~]

[~~(4) the Mentor Program Allotment under TEC, §48.114;~~]

[~~(5) the School Safety Allotment under TEC, §48.115; and~~]

(4) [~~(6)~~] the Fast Growth Allotment under TEC, §48.111; and [~~.~~]

(5) the Teacher Incentive Allotment under TEC, §48.112.

(f) Funding for instructional facilities for charter schools. For [~~Effective September 1, 2018, for~~] purposes of the calculation in subsection (c)(1)(A) of this section, any funding to which the contracted campus, contracted campus program, or resource campus would be entitled under TEC, §12.106(d), will be included in the calculation.

(g) Recovery of funds. If a contract is found to be out of compliance with TEC, §11.157 or §11.174, or §97.1075 of this title (relating to Contracting to Partner to Operate a Campus under Texas Education Code, §11.174), TEA will eliminate any funding provided for that campus, contracted campus program, or resource campus under TEC, §48.252, and recover any funds overallocated under the provisions of TEC, §48.272.

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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Cristina De La Fuente-Valadez
Director, Rulemaking
Texas Education Agency
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CHAPTER 74. CURRICULUM REQUIREMENTS

SUBCHAPTER BB. COMMISSIONER'S RULES CONCERNING HIGH SCHOOL GRADUATION

19 TAC §74.1025, §74.1027

The Texas Education Agency (TEA) proposes amendments to §74.1025 and §74.1027, concerning high school graduation. The proposed amendments would eliminate expiration provisions in alignment with statute.

BACKGROUND INFORMATION AND JUSTIFICATION: Texas Education Code (TEC), §28.0258, requires each school district and open-enrollment charter school to establish an individual graduation committee for each 11th or 12th grade student who fails to perform satisfactorily on not more than two end-of-course (EOC) assessments. Statute requires the commissioner of education to adopt rules to establish alternative individual graduation committee members and a timeline for decisions by individual graduation committees. The provisions of TEC, §28.0258, were initially set to expire September 1, 2017. Senate Bill (SB) 463, 85th Texas Legislature, Regular Session, 2017, extended the expiration date to September 1, 2019, and added TEC, §28.02541.

TEC, §28.02541, allows certain former students--those who entered high school prior to the 2011-2012 school year and completed all curriculum requirements but did not perform satisfactorily on the required assessments--to qualify for a high school diploma. Before 2011, these students were required to perform satisfactorily on exit-level Texas Assessment of Knowledge and Skills (TAKS) assessments in English language arts, mathematics, science, and social studies. Earlier cohorts were subject to prior exit-level assessments, including the Texas Assessment of Academic Skills (TAAS) and the Texas Educational Assessment of Minimum Skills (TEAMS). Statute requires the commissioner to adopt rules to administer TEC, §28.02541. The provisions of TEC, §28.02541, were initially set to expire September 1, 2019.

SB 213, 86th Texas Legislature, Regular Session, 2019, subsequently extended the expiration dates for both TEC, §28.0258 and §28.02541, to September 1, 2023. In 2021, House Bill (HB) 1603, 87th Texas Legislature, Regular Session, removed the expiration dates from both statutes, making the provisions of TEC, §28.0258 and §28.02541, permanent.

Section 74.1025 establishes the procedures for determining whether a student may qualify to graduate and receive a high school diploma based on an individual graduation committee (IGC) decision under TEC, §28.0258.

Section 74.1027 establishes the procedures for determining whether a student may qualify to graduate and receive a high school diploma under TEC, §28.02541.

The proposed amendments would remove the expiration dates from §74.1025 and §74.1027 to align with HB 1603, 87th Texas Legislature, Regular Session, 2021.

In addition, obsolete references to the 2014-2015 and 2017-2018 school years would be removed.

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

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

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

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

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

GOVERNMENT GROWTH IMPACT: TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not create a new regulation; would not expand, limit, or repeal an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

PUBLIC BENEFIT AND COST TO PERSONS: Ms. Martinez has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposal would be providing additional flexibility for students and former students who are seeking to graduate but have not met all assessment requirements. There is no anticipated economic cost to persons who are required to comply with the proposal.

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

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

PUBLIC COMMENTS: 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 21, 2026, and ends September 21, 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 21, 2026. A form for submitting public comments is available on the TEA website at https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_(TAC)/Proposed_Commissioner_of_Education_Rules/.

STATUTORY AUTHORITY. The amendments are proposed under TEC, §28.02541, which requires the commissioner of education to establish a procedure to determine whether certain students who entered Grade 9 before the 2011-2012 school year may qualify to graduate and receive a high school diploma; TEC, §28.0258, which requires each school district and open-enrollment charter school to establish an IGC for certain students who failed to perform satisfactorily on not more than two EOC assessments. This section requires the commissioner to adopt rules as necessary to implement the IGC requirement; and TEC, §28.0259, which requires the commissioner of education to adopt rules as necessary to implement the requirement for school districts to report through the Public Education Information Management System (PEIMS) the number of district students each school year for which an individual graduation committee.

CROSS REFERENCE TO STATUTE. The amendments implement TEC, §§28.02541, 28.0258, and 28.0259.

§74.1025. Individual Graduation Committee Review.

(a) In [~~Effective beginning with the 2014-2015 school year, in~~] accordance with [~~the~~] Texas Education Code (TEC), §28.0258; [~~,~~] §101.3022 of this title (relating to Assessment Requirements for Graduation); [~~,~~] and the course requirements in Chapter 74, Subchapter B, of this title (relating to Graduation Requirements), a school district or an open-enrollment charter school may award a high school diploma to a student who has taken but failed to achieve the end-of-course (EOC) assessment graduation requirements for no more than two courses if the student has qualified to graduate by means of an individual graduation committee.

(b) A school district or an open-enrollment charter school shall establish an individual graduation committee at the end of or after a student's 11th grade year to determine whether the student may qualify to graduate. A student may not qualify to graduate as a result of an individual graduation committee decision before the student's 12th grade year.

(c) A school district or an open-enrollment charter school may not establish an initial individual graduation committee for eligible students after June 10 or before the start of the next school year. Once the individual graduation committee has been established, it is the original individual graduation committee for that student.

(d) In order for a student to be included as a graduate in the school district's or charter school's graduation data in the school year in which the student meets the requirements provided by law to graduate under individual graduation committee provisions, an individual graduation committee must make a decision to award a diploma no later than August 31 immediately following that school year. A student who graduates as a result of an individual graduation committee decision after August 31 shall be reported in the subsequent year's graduation data.

(e) If a student leaves a school district after an original individual graduation committee has been established and before that original individual graduation committee awards a high school diploma to the student, any other district that later enrolls the student shall request information from the student's original individual graduation committee of record and shall implement the original individual graduation committee recommendations to the extent possible.

(f) The individual graduation committee shall consist of the following:

(1) the principal or principal's designee;

(2) for each EOC assessment instrument on which the student failed to perform satisfactorily, the teacher of the course;

(3) the department chair or lead teacher supervising the teacher described by paragraph (2) of this subsection; and

(4) as applicable:

(A) the student's parent or person standing in parental relation to the student;

(B) a designated advocate if the person described by subparagraph (A) of this paragraph is unable to serve; or

(C) the student, at the student's option, if the student is at least 18 years of age or is an emancipated minor.

(g) In the event that the teacher identified in subsection (f)(2) of this section is unavailable, the principal shall designate as an alternate member of the committee a teacher certified in the subject of the EOC assessment on which the student failed to perform satisfactorily and who is most familiar with the student's performance in that subject area.

(h) In the event that the individual identified in subsection (f)(3) of this section is unavailable, the principal shall designate as an alternate member of the committee an experienced teacher certified in the subject of the EOC assessment on which the student failed to perform satisfactorily and who is familiar with the content of and instructional practices for the applicable course.

(i) In the event that the student's parent or person standing in parental relation to the student is unavailable to participate in the individual graduation committee, the principal shall designate an advocate with knowledge of the student to serve as an alternate member of the committee.

(j) Each school district and open-enrollment charter school shall report through the Texas Student Data System Public Education Information Management System (TSDS PEIMS) the following:

(1) the number of students each school year for which an individual graduation committee is established; and

(2) the number of students each school year who are awarded a diploma based on the decision of an individual graduation committee.

(k) A district shall maintain documentation to support the decision of the individual graduation committee to award or not award a student a high school diploma.

(l) This section only applies to a student classified by the school district or open-enrollment charter school as an 11th or 12th grade student in the 2014-2015 school year or thereafter.

[~~(m) Provisions of this section expire September 1, 2023. A student may graduate by means of an individual graduation committee if the student has qualified for an individual graduation committee under the TEC, §28.0258, and the individual graduation committee convened prior to September 1, 2023.~~]

<u>(m)</u> [~~(n)~~] A student receiving special education services is not subject to the individual graduation committee requirements in [~~the~~] TEC, §28.0258, or the provisions of this section. As provided in §89.1070 of this title (relating to Graduation Requirements) and §101.3023 of this title (relating to Participation and Graduation Assessment Requirements for Students Receiving Special Education Services), a student's admission, review, and dismissal [~~(ARD)~~] committee determines whether a student is required to achieve satisfactory performance on an EOC assessment to graduate.

§74.1027. Diplomas for Certain Individuals Who Entered Grade 9 Before 2011-2012 School Year.

(a) <u>In</u> [~~Effective beginning with the 2017-2018 school year, in~~] accordance with [~~the~~] Texas Education Code (TEC), §28.02541, a school district or an open-enrollment charter school may award a high school diploma to an individual who:

(1) entered Grade 9 before the 2011-2012 school year;

(2) successfully completed the curriculum requirements for high school graduation applicable to the individual when the individual entered Grade 9;

(3) has not performed satisfactorily on an assessment instrument or a part of an assessment instrument required for high school graduation, including an alternate assessment instrument offered under TEC, §39.025(c-2);

(4) has been administered at least three times the required subject-areas test(s), including an alternate assessment as specified in paragraph (3) of this subsection, for which the individual has not performed satisfactorily on the exit-level assessment instrument applicable to the individual when the individual entered Grade 9; and

(5) meets the alternative requirements for graduation in accordance with subsection (c) of this section or the local alternative requirements approved by the board of trustees in accordance with subsection (d) of this section.

(b) The school district or open-enrollment charter school in which the individual is enrolled or was last enrolled shall determine whether the individual may qualify to graduate and receive a high school diploma on the basis of the alternative requirements for graduation.

(c) The alternative requirements for graduation shall permit an individual to qualify to graduate and receive a high school diploma if the individual:

(1) has met the performance standard on an alternate assessment as specified in §101.4003 of this title (relating to Texas Assessment of Knowledge and Skills Exit-Level Alternate Assessments);

(2) has performed satisfactorily on the applicable subject-area test of a state-approved high school equivalency examination in accordance with §89.43(a)(4) of this title (relating to Eligibility for a Texas Certificate of High School Equivalency);

(3) provides evidence of attainment of a Texas Education Agency-approved industry-recognized postsecondary license or certification;

(4) provides evidence of current active duty service in the armed forces or a DD Form 214 indicating honorable or general discharge from the armed forces; or

(5) has successfully completed college-level coursework and earned college credit.

(d) With approval by the school district board of trustees, a school district may develop recommendations for local alternative requirements if the requirements would allow an individual to demonstrate proficiency in the content related to an examination for which the individual has not performed satisfactorily.

(e) A decision regarding whether the individual qualifies to graduate and receive a high school diploma is final and may not be appealed.

(f) The school district or open-enrollment charter school shall maintain documentation to support the decision to award or not award an individual a high school diploma.

~~[(g) Provisions of this section expire September 1, 2023.]~~

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 August 10, 2026.

TRD-202603361
Cristina De La Fuente-Valadez
Director, Rulemaking
Texas Education Agency
Earliest possible date of adoption: September 20, 2026
For further information, please call: (512) 475-1497

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TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 11. TEXAS JUVENILE JUSTICE DEPARTMENT

CHAPTER 380. RULES FOR STATE-OPERATED PROGRAMS AND FACILITIES

SUBCHAPTER A. ADMISSION, PLACEMENT, RELEASE, AND DISCHARGE

DIVISION 5. PROGRAM COMPLETION AND RELEASE

37 TAC §380.8565

The Texas Juvenile Justice Department (TJJD) proposes to amend 37 TAC, Part 11, §380.8565, Discharge of Youth with Determinate Sentences upon Transfer to TDCJ or Expiration of Sentence.

SUMMARY OF CHANGES

Amendments to §380.8565 will include adding that TJJD requests a juvenile court hearing to recommend the transfer of a youth to the Texas Department of Corrections (TDCJ), Correctional Institutions Division, if the youth is adjudicated or convicted of conduct that meets the following criteria: 1) the adjudication or conviction is classified as a first- or second-degree felony or is the offense of assault of a public servant; 2) the conduct occurred while the youth was committed to TJJD custody; 3) the youth was at least 16 years old when the conduct occurred; and 4) the youth has not completed the sentence.

FISCAL NOTE

Emily Anderson, Deputy Executive Director: Support Operations and Finance, has determined that, for each year of the first five years the amended section is in effect, there will be no significant fiscal impact for state government or local governments as a result of enforcing or administering the section.

PUBLIC BENEFITS/COSTS

Cameron Taylor, Policy Director, has determined that for each year of the first five years the amended section is in effect, the public benefit anticipated as a result of administering the section will be to clarify that youth who have engaged in certain conduct defined in the section are transferred to TDCJ.

Ms. Anderson has also determined that there will be no effect on small businesses, micro-businesses, or rural communities. There is no anticipated economic cost to persons who are required to comply with the amended section as proposed. No private real property rights are affected by adoption of the section.

GOVERNMENT GROWTH IMPACT

TJJD has determined that, during the first five years the amended section is in effect, the section will have the following impacts.

(1) The proposed section does not create or eliminate a government program.

(2) The proposed section does not require the creation or elimination of employee positions at TJJD.

(3) The proposed section does not require an increase or decrease in future legislative appropriations to TJJD.

(4) The proposed section does not impact fees paid to TJJD.

(5) The proposed section does not create a new regulation.

(6) The proposed section does not expand, limit, or repeal an existing regulation.

(7) The proposed section does not increase or decrease the number of individuals subject to the section's applicability.

(8) The proposed section will not positively or adversely affect this state's economy.

PUBLIC COMMENTS

Comments on the proposal may be submitted within 30 days after publication of this notice to Texas Juvenile Justice Department, Policy and Standards Section, P.O. Box 12757, Austin, Texas 78711, or via email to policy.proposals@tjjd.texas.gov.

STATUTORY AUTHORITY

The amended section is proposed under §242.003, Human Resources Code, which requires the Board to adopt rules appropriate to properly accomplish TJJD's functions and to adopt rules for governing TJJD schools, facilities, and programs; and §244.014(a-1), Human Resources Code, which requires TJJD to refer a child with a determinate sentence to the juvenile court for a hearing for possible transfer to the TDCJ for confinement if the child is convicted or adjudicated for certain conduct.

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

§380.8565. Discharge of Youth with Determinate Sentences upon Transfer to TDCJ or Expiration of Sentence.

(a) Purpose. This rule establishes criteria and an approval process for:

(1) requesting court approval to transfer sentenced offenders to adult prison; and

(2) discharging sentenced offenders:

(A) whose sentences have expired; or

(B) who did not previously qualify for release or transfer by completing required programming.

(b) Applicability.

(1) This rule applies only to the disposition of a youth's determinate sentence(s).

(2) This rule applies only to sentenced offenders.

(3) This rule does not apply to:

(A) sentenced offenders who qualify for release or transfer to parole by completing required programming. See §380.8559 of this chapter; or

(B) sentenced offenders adjudicated for capital murder. See §380.8569 of this chapter.

(c) General Requirements.

(1) By law, a sentenced offender is transferred from the custody of the Texas Juvenile Justice Department (TJJD) no later than the youth's 19th birthday.

(2) The youth must serve the entire minimum period of confinement that applies to the committing offense in a high-restriction facility unless:

(A) the youth is transferred by the committing court to the Texas Department of Criminal Justice-Correctional Institutions Division (TDCJ-CID);

(B) the youth is approved by the committing court to attain parole status before completing the minimum period of confinement;

(C) the youth's sentence expires before the minimum period of confinement expires; or

(D) the executive director waives the requirement that the youth be assigned to a high-restriction facility. This subparagraph does not allow a youth to be placed on parole status.

(3) TJJD reviews each youth's progress:

(A) six months after admission to TJJD;

(B) when the minimum period of confinement is complete;

(C) when the youth becomes 16 years of age;

(D) when the youth becomes 18 years of age and again at 18 years and six months of age to determine eligibility or make a recommendation for transfer to TDCJ-CID or to the Texas Department of Criminal Justice-Parole Division (TDCJ-PD);

(E) within 45 days after revocation of parole, if applicable; and

(F) at other times as appropriate, such as after a major rule violation is proven at a Level II hearing.

(4) TJJD jurisdiction is terminated and a youth is discharged when:

(A) the youth is transferred to TDCJ; or

(B) the youth's sentence has expired, except when the youth is committed to TJJD under concurrent determinate and indeterminate commitment orders as described in §380.8525 of this chapter.

(d) Transfer Criteria.

(1) Transfer to TDCJ-CID for Youth Whose Conduct Occurs While on Parole Status. TJJD may request a juvenile court hearing to recommend transfer of a youth to TDCJ-CID if all of the following criteria are met:

(A) the youth's parole has been revoked or the youth has been adjudicated or convicted of a felony offense occurring while on parole status;

(B) the youth is at least age 16;

(C) the youth has not completed the sentence; and

(D) the youth's conduct indicates that the welfare of the community requires the transfer.

(2) Transfer to TDCJ-CID for Youth Whose Conduct Occurs While in a High-Restriction Facility. TJJD may request a juvenile court hearing to recommend transfer of a youth in a high-restriction facility to TDCJ-CID if the following criteria are met:

(A) the youth is at least age 16; and

(B) except as provided by subparagraph (D)(i) of this paragraph, the youth has spent at least six months in high-restriction facilities, which is counted as follows:

(i) if the youth received a determinate sentence for conduct that occurred in the community, the six months begins upon admission to TJJD; or

(ii) if the youth received a determinate sentence for conduct that occurred in a TJJD or contract facility, the six months begins upon the youth's initial admission to TJJD, regardless of whether the initial admission resulted from a determinate or indeterminate commitment; and

(C) the youth has not completed the sentence; and

(D) the youth meets at least one of the following behavior criteria:

(i) the youth has engaged in conduct meeting the elements of a felony or Class A misdemeanor while assigned to a residential facility; however, if the conduct meets the elements of the offense of assault of a public servant as defined in §22.01, Penal Code, subparagraph (B) of this paragraph does not apply; or

(ii) the youth has committed major rule violations as proven at a Level II due process hearing on three or more occasions; or

(iii) the youth has engaged in conduct that has resulted in at least five security program admissions or extensions in one month or ten in three months (see §380.9740 of this chapter for information on the security program); or

(iv) the youth has demonstrated an unwillingness to progress in the rehabilitation program due to persistent non-compliance with objectives; and

(E) alternative interventions have been tried without success; and

(F) the youth's conduct indicates that the welfare of the community requires the transfer.

(3) Transfer to TDCJ-CID for Youth Engaged in Certain Conduct. Notwithstanding paragraphs (1) and (2) of this subsection, TJJD shall request a juvenile court hearing to recommend transfer of a youth if the youth is adjudicated for or convicted of conduct that meets the following criteria:

(A) the adjudication or conviction is classified as a first-degree felony or a second-degree felony, or is the offense of assault of a public servant under §22.01(b)(1), Penal Code;

(B) the conduct occurred while the youth was committed to TJJD custody;

(C) the youth was at least age 16 when the conduct occurred; and

(D) the youth has not completed the sentence.

(4) [~~(3)~~] Transfer to TDCJ-PD for Youth in Residential Facilities. A youth in a residential facility who has not met program completion criteria in §380.8559 of this chapter and who has not received court approval for transfer to TDCJ-CID must be transferred to TDCJ-PD no later than the youth's 19th birthday.

(5) [~~(4)~~] Transfer to TDCJ-PD for Youth on TJJD Parole. A youth on TJJD parole must be transferred to TDCJ-PD no later than the youth's 19th birthday.

(e) Transfer Recommendation for Youth Who Will Not Complete the Minimum Period of Confinement before Age 19. TJJD requests a court hearing for any youth who cannot complete the minimum period of confinement by the 19th birthday. The purpose of the hearing is to determine whether the youth will be transferred to TDCJ-CID or to TDCJ-PD. Notwithstanding the criteria in subsection (d)(2) of this section, TJJD considers the following factors in forming a recommendation for the committing court:

(1) length of stay in TJJD;

(2) youth's progress in the rehabilitation program;

(3) youth's behavior while in TJJD;

(4) youth's offense/delinquent history; and

(5) any other relevant factors, such as:

(A) risk factors and protective factors the youth possesses as identified in the youth's psychological evaluation;

(B) the welfare of the community; and

(C) participation in or completion of statutorily required rehabilitation programming, including but not limited to:

(i) participation in a reading improvement program for identified youth to the extent required under §380.9155 of this chapter;

(ii) participation in a positive behavior support system to the extent required under §380.9155 of this chapter; and

(iii) completion of at least 12 hours of a gang intervention education program, if required by court order.

(f) Discharge Criteria. TJJD discharges youth from its jurisdiction when one of the following occurs:

(1) expiration of the sentence imposed by the juvenile court, unless the youth is under concurrent commitment orders as described in §380.8525 of this chapter; or

(2) the youth has been transferred to TDCJ-CID under court order or transferred to TDCJ-PD.

(g) Approval Process for Transfer to TDCJ-CID or TDCJ-PD.

(1) Before staff submit a recommendation for transfer to TDCJ-CID or TDCJ-PD, a determinate sentence review shall be held.

(2) TJJD notifies the youth and the youth's parent/guardian of a pending determinate sentence review. The notification informs the recipients that they have the opportunity to present information in person or to submit written comments to TJJD. The notification also specifies the date by which the comments or the request to present in-person information must be received.

(3) Approval from the final decision authority is required before requesting a hearing with the committing juvenile court or initiating a transfer to TDCJ-PD.

(4) A hearing with the committing juvenile court shall be requested when a youth cannot complete the minimum period of confinement before age 19.

(5) The final decision authority ensures the youth's community reentry/transition plan adequately addresses risk factors before approving the transfer from a high-restriction facility to TDCJ-PD.

(6) A youth may not be transferred to TDCJ-CID unless the committing juvenile court orders the transfer.

(h) Active Warrants. At least ten calendar days before the youth's transfer or release, TJJD notifies any entity that has issued an active warrant for the youth.

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 August 5, 2026.

TRD-202603300
Jana Jones
General Counsel
Texas Juvenile Justice Department
Earliest possible date of adoption: September 20, 2026
For further information, please call: (512) 490-7130

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SUBCHAPTER B. TREATMENT
DIVISION 1. PROGRAM PLANNING

37 TAC §380.8702

The Texas Juvenile Justice Department (TJJD) proposes to amend 37 TAC, Part 11, §380.8702, Rehabilitation Program Overview.

SUMMARY OF CHANGES

Amendments to §380.8702 will include: 1) adding information related to the residential treatment model framework; 2) describing the core tools used in the treatment model framework, including behavior analysis, treatment targets, behavior modification principles, skills training, and youth and family involvement; 3) adding the expectation that residential treatment is oriented around clear behavioral expectations and privileges associated with progress; 4) outlining TJJD staff priorities that encourage motivation and engagement, including goal-setting with youth, collaborative planning, validating engagement, adaptation of treatment delivery to fit the youth, and explicit linkage between participation in treatment and youth's goals; 5) adding that the TJJD environment will be structured to reinforce skillful behavior in real time, block or weaken outcomes that reinforce unsafe or unskillful behavior, provide opportunities for skillful behavior, generalize skills across settings and staff, and teach youth to structure their own environments and select effective skills that maximize success; and 6) adding descriptions of egregious maladaptive behavior categories that TJJD staff will target, including life-threatening and aggressive; escape, abscond, and evasion; treatment-interfering and program-destroying; and quality-of-life-interfering.

FISCAL NOTE

Emily Anderson, Deputy Executive Director: Support Operations and Finance, has determined that, for each year of the first five years the amended section is in effect, there will be no significant fiscal impact for state government or local governments as a result of enforcing or administering the section.

PUBLIC BENEFITS/COSTS

Cameron Taylor, Policy Director, has determined that for each year of the first five years the amended section is in effect, the public benefit anticipated as a result of administering the section will be to provide specific information pertaining to TJJD's residential treatment model framework.

Ms. Anderson has also determined that there will be no effect on small businesses, micro-businesses, or rural communities. There is no anticipated economic cost to persons who are required to comply with the amended section as proposed. No private real property rights are affected by adoption of the section.

GOVERNMENT GROWTH IMPACT

TJJD has determined that, during the first five years the amended section is in effect, the section will have the following impacts.

(1) The proposed section does not create or eliminate a government program.

(2) The proposed section does not require the creation or elimination of employee positions at TJJD.

(3) The proposed section does not require an increase or decrease in future legislative appropriations to TJJD.

(4) The proposed section does not impact fees paid to TJJD.

(5) The proposed section does not create a new regulation.

(6) The proposed section does not expand, limit, or repeal an existing regulation.

(7) The proposed section does not increase or decrease the number of individuals subject to the section's applicability.

(8) The proposed section will not positively or adversely affect this state's economy.

PUBLIC COMMENTS

Comments on the proposal may be submitted within 30 days after publication of this notice to Texas Juvenile Justice Department, Policy and Standards Section, P.O. Box 12757, Austin, Texas 78711, or via email to policy.proposals@tjjd.texas.gov.

STATUTORY AUTHORITY

The amended section is proposed under §242.003, Human Resources Code, which requires the Board to adopt rules appropriate to properly accomplish TJJD's functions and to adopt rules for governing TJJD schools, facilities, and programs.

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

§380.8702. Rehabilitation Program Overview.

(a) Purpose. The purpose of this rule is to identify the philosophy and approach of the Texas Juvenile Justice Department (TJJD) to the rehabilitation of youth in TJJD's care in order to reduce future delinquent behavior and increase public safety.

(b) Applicability. This rule applies to youth committed to TJJD.

(c) Definitions. See §380.8501 of this chapter for definitions of terms used in this rule.

(d) General Provisions.

(1) TJJD provides a trauma-informed rehabilitative program that is focused on delivering needed treatment, assessing behavioral progress, assessing increases in protective factors and decreases in risk factors, and assessing the ability of youth to use skills learned in treatment and programming.

(2) All treatment and programming is delivered in the least restrictive setting appropriate to the youth, consistent with the rules of this chapter.

(3) To the extent possible, TJJD's rehabilitative program offers programs that ensure youth receive appropriate rehabilitation services, including those recommended by the committing court.

(4) All aspects of the TJJD rehabilitation program are individualized and performance-based, with clearly defined expectations as set forth in §380.8703 of this chapter.

(5) Each youth's individual progress is reviewed monthly. The review addresses identified risk and protective factors and individual abilities.

(6) As youth progress in the rehabilitation program, there are increased expectations for demonstrating developed skills and social responsibility, a decreased need for staff intervention, and an increase in earned privileges.

(7) TJJD facilities maintain a structured daily schedule for all youth. Each day, youth work on components of the rehabilitation program.

(8) TJJD facilities provide for and youth are required to participate in a structured, individually appropriate educational program or equivalent, with appropriate supports.

(9) TJJD facilities provide and eligible youth may participate in work experiences.

(10) TJJD facilities must provide and youth are given the opportunity to participate in regular large-muscle exercise and recreation programs.

(11) Staff members receive appropriate training and certification related to their role in the rehabilitation program and the types of services they provide.

(12) TJJD may pilot new programs or program components for youth whose needs cannot be met by existing program components.

<u>(e) Residential Treatment Model Framework.</u>

<u>(1) TJJD delivers rehabilitation through a residential, milieu-based model. Treatment occurs where youth live, learn, and recreate skillful behavior, and treatment is reinforced across daily routines. The model coordinates core tools to directly target problem behavior and build replacement skills, including:</u>

<u>(A) behavior analysis (including behavior chain analysis);</u>

<u>(B) TJJD treatment target hierarchy;</u>

<u>(C) behavior modification principles (e.g., reinforcement, shaping, extinction, contingency management);</u>

<u>(D) skills training model and curriculum; and</u>

<u>(E) youth and family involvement in treatment.</u>

(2) Residential treatment delivery is oriented around clear behavioral expectations and privileges associated with progress. Treatment links participation to the youth's own goals and introduces motivation and commitment strategies for staff use (e.g., attainable goal setting, reinforcement of adaptive/skillful behavior, structuring routines and the environment, and providing opportunities to practice skills).

(3) TJJD staff encourage motivation and engagement by prioritizing:

(A) conversations with youth oriented around specific goals and the future;

(B) collaborative planning and unified efforts among staff;

(C) consistent interactions and validating engagement with youth;

(D) adaptation of the treatment delivery to a youth's developmental and cognitive level; and

(E) explicit linkage between participation in treatment and the youth's goals and progress.

(4) TJJD structures the environment so investment in treatment is continuously expected. Daily schedules, living-unit routines, and programming are organized to allow staff to:

(A) prompt, model, and reinforce skillful behavior in real time;

(B) block or weaken outcomes that previously reinforced unsafe or unskillful behavior;

(C) provide frequent, predictable opportunities for shaping successful use of skillful behavior;

(D) generalize skills across settings and staff; and

(E) teach youth to structure their own environments, recognize triggers, select effective skills, and arrange protective factors that maximize short- and long-term success.

(5) Staff prioritize behavior targets using the TJJD treatment hierarchy and concentrate efforts on the most egregious maladaptive behaviors engaged in by a youth at any given time to help ensure meaningful treatment delivery.

(A) Life-Threatening and Aggressive Behavior Targets. Assaultive conduct, sexual aggression, and other dangerous behavior are prioritized in the treatment hierarchy because these behaviors directly threaten others' safety and security and interrupt the youth's treatment participation. When such behavior occurs, staff use an immediate, effective response to protect safety and return the youth to programming as quickly as possible.

(B) Escape, Abscond, and Evasion Behavior Targets. Escape, abscond, and evasion behaviors are the second priority in the treatment hierarchy because a youth cannot access treatment or consistently practice skills when a youth is absent or intent on evasion of treatment. These behaviors are addressed to restore engagement and stabilize predictable participation.

(C) Treatment-Interfering and Program-Destroying Behavior Targets. This category of the treatment hierarchy is considered third in severity and includes behaviors that erode treatment effectiveness (e.g., minimal or sporadic participation, disruption of group work or milieu routines, and conduct that discourages the motivation of staff and providers). Interventions focus on responsivity, restoring predictable expectations and routines, and protecting the treatment milieu to provide all youth the opportunity to participate in programming.

(D) Quality-of-Life-Interfering Behavior Targets. This category includes behaviors that destabilize overall individual functioning, such as: substance abuse; persistent negative thought patterns, beliefs, or interpersonal interactions; or conduct that undermines basic needs (e.g., neglecting education, hygiene, clothing, or health). These behaviors are addressed to create or restore the stability and engagement required for skill acquisition and sustained progress.

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 August 5, 2026.

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Jana Jones
General Counsel
Texas Juvenile Justice Department
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For further information, please call: (512) 490-7130

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SUBCHAPTER E. BEHAVIOR MANAGEMENT AND YOUTH DISCIPLINE

DIVISION 1. BEHAVIOR MANAGEMENT

37 TAC §§380.9503 - 380.9505

The Texas Juvenile Justice Department (TJJD) proposes to amend 37 TAC, Part 11, §380.9503, Rules and Consequences for Residential Facilities, and §380.9504, Rules and Consequences for Youth on Parole. TJJD also proposes new §380.9505, Egregious Behavior Protocol.

SUMMARY OF CHANGES

Amendments to §380.9503 will include: 1) updating language related to major rule violations to include that major rule violations are considered the most serious incidents and are categorized in the TJJD treatment hierarchy as life-threatening behavior targets; escape, abscond, and evasion behavior targets; or treatment-interfering or program-destroying behavior targets; 2) clarifying that responsive treatment is based on the degree of interference or intrusiveness such conduct has on any youth's ability to effectively engage in treatment; 3) adding *assault by threat, chunking fluids other than bodily fluids,* and *obstruction or retaliation* as a major rule violation; and 4) updating language related to minor rule violations to clarify that minor rule violations are considered treatment-interfering behavior targets, program-destroying behavior targets, or quality-of-life-interfering behavior targets.

Amendments to §380.9504 will include updating language related to parole rule violations to include that parole rule violations are categorized in the TJJD treatment hierarchy based on the degree of interference or intrusiveness such conduct has on any youth's ability to engage effectively in treatment.

New §380.9505 will include: 1) the rule's applicability and general provisions; and 2) information pertaining to the egregious behavior protocol, safety-based measures, and youth returning to regular programming.

FISCAL NOTE

Emily Anderson, Deputy Executive Director: Support Operations and Finance, has determined that, for each year of the first five years the new and amended sections are in effect, there will be no significant fiscal impact for state government or local governments as a result of enforcing or administering the sections.

PUBLIC BENEFITS/COSTS

Cameron Taylor, Policy Director, has determined that for each year of the first five years the new and amended sections are in effect, the public benefit anticipated as a result of administering the sections will be: 1) to align existing rules with TJJD's current treatment model; 2) to update what constitutes major and minor rule violations; and 3) to provide information pertaining to TJJD's egregious behavior protocol, safety-based measures, and youth returning to regular programming.

Ms. Anderson has also determined that there will be no effect on small businesses, micro-businesses, or rural communities. There is no anticipated economic cost to persons who are required to comply with the new and amended sections as proposed. No private real property rights are affected by adoption of the sections.

GOVERNMENT GROWTH IMPACT

TJJD has determined that, during the first five years the new and amended sections are in effect, the sections will have the following impacts.

(1) The proposed sections do not create or eliminate a government program.

(2) The proposed sections do not require the creation or elimination of employee positions at TJJD.

(3) The proposed sections do not require an increase or decrease in future legislative appropriations to TJJD.

(4) The proposed sections do not impact fees paid to TJJD.

(5) The proposed sections do not create a new regulation.

(6) The proposed sections do not expand, limit, or repeal an existing regulation.

(7) The proposed sections do not increase or decrease the number of individuals subject to the section's applicability.

(8) The proposed sections will not positively or adversely affect this state's economy.

PUBLIC COMMENTS

Comments on the proposal may be submitted within 30 days after publication of this notice to Texas Juvenile Justice Department, Policy and Standards Section, P.O. Box 12757, Austin, Texas 78711, or via email to policy.proposals@tjjd.texas.gov.

STATUTORY AUTHORITY

The new and amended sections are proposed under §242.003, Human Resources Code, which requires the Board to adopt rules appropriate to properly accomplish TJJD's functions and to adopt rules for governing TJJD schools, facilities, and programs.

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

§380.9503. Rules and Consequences for Residential Facilities.

(a) Purpose. This rule establishes the actions that constitute violations of the rules of conduct for residential facilities. Violations of the rules may result in disciplinary consequences that are proportional to the severity and extent of the violation. Appropriate due process, including a consideration of extenuating circumstances, shall be followed before imposing disciplinary consequences.

(b) Applicability. This rule applies to youth assigned to residential facilities operated by the Texas Juvenile Justice Department (TJJD).

(c) Definitions. The following terms, as used in this rule, have the following meanings unless the context clearly indicates otherwise.

(1) Attempt to Commit--a youth, with specific intent to commit a rule violation, engages in conduct that amounts to more than mere planning that tends but fails to effect the commission of the intended rule violation.

(2) Bodily Injury--physical pain, illness, or impairment of physical condition. Fleeting pain or minor discomfort does not constitute bodily injury.

(3) Direct Someone to Commit--occurs when:

(A) a youth communicates with another youth;

(B) the communication is intended to cause the other youth to commit a rule violation; and

(C) the other youth commits or attempts to commit a rule violation.

(4) Possession--actual care, custody, control, or management. It does not require the item to be on or about the youth's person.

(d) General Provisions.

(1) Formal incident reports are completed for alleged rule violations as required by internal operational procedures.

(2) A formal incident report is not proof that a youth committed an alleged rule violation. An incident report or other document describing conduct is not something that can be appealed or grieved; only the results of a hearing or rule-violation review may be appealed, as provided below.

(3) When a youth is found to be in possession of prohibited money as defined in this rule, a Level II hearing is required to seize the money. Seized money shall be placed in the student benefit fund in accordance with §380.9555 of this chapter.

(4) This paragraph applies only to youth not on parole status who are alleged to have engaged in conduct classified as a first- or second-degree felony while in a residential facility operated by or under contract with TJJD. A Level II hearing shall be requested on these youth unless it is determined that, given all circumstances, a Level II hearing is not appropriate. Such decision shall be documented. If a requested Level II hearing is held and the allegation is proved, the youth shall be reviewed for the most restrictive setting appropriate, including the intervention program described by §380.9510 of this chapter.

(e) Disciplinary Consequences.

(1) Disciplinary consequences shall be established in writing in TJJD's procedural manuals. Appropriate disciplinary consequences may be imposed only if the consequences are established in writing in TJJD's procedural manuals prior to the occurrence of the conduct for which the consequence is issued.

(2) Disciplinary consequences may include, but are not limited to, the following:

(A) suspension of privileges;

(B) restriction from planned activities;

(C) trust-fund restriction; and

(D) disciplinary transfer to a high-restriction facility (available only for youth on institutional status in a medium-restriction facility).

(3) The following are prohibited as disciplinary consequences:

(A) corporal or unusual punishment;

(B) subjecting a youth to humiliation, harassment, or physical or mental abuse;

(C) subjecting a youth to personal injury;

(D) subjecting a youth to property damage or disease;

(E) punitive interference with the daily functions of living, such as eating or sleeping;

(F) purposeless or degrading work, including group exercise as a consequence;

(G) placement in the intervention program under §380.9510 of this chapter;

(H) disciplinary isolation; and

(I) extending a youth's stay in a TJJD facility.

(4) A Level II hearing is required before imposing a disciplinary consequence that materially alters a youth's living conditions, including disciplinary transfer from a medium-restriction facility to a high-restriction facility. TJJD's procedural manuals will specify which disciplinary consequences require a Level II hearing. Disciplinary consequences requiring a Level II hearing are considered major consequences.

(5) This paragraph applies only to youth in high-restriction facilities. To impose a disciplinary consequence that does not require a Level II hearing, a rule-violation review is required. A rule-violation review is a process by which staff review evidence to determine whether a rule violation occurred. A rule-violation review results in a finding that the alleged violation is proven, the alleged violation is not proven, or a different rule was violated than the one alleged. A rule violation is proven if a preponderance of the evidence proves behavior meeting the definition of a rule violation occurred. The following steps are to be taken for every rule-violation review, regardless of whether a consequence is sought:

(A) a written description of the incident must be prepared;

(B) staff must notify the youth which rule violation the youth allegedly committed;

(C) staff must notify the youth which disciplinary consequence(s) staff is considering imposing, if any;

(D) the youth must be given the opportunity to review the relevant evidence considered by staff and to present the youth's own relevant evidence; and

(E) the youth must be given the opportunity to address the allegation, including providing any extenuating circumstances and information on the appropriateness of the intended consequence(s).

(6) If a Level II hearing is not required, a Level III hearing must occur before imposing disciplinary consequences for a youth in a medium-restriction facility, in accordance with §380.9557 of this chapter.

(f) Review and Appeal of Consequences.

(1) All disciplinary consequences shall be reviewed for policy compliance by the facility administrator or designee within three calendar days after issuance. The reviewing staff shall not be the staff who issued the discipline.

(2) The reviewing staff may remove or reduce any disciplinary consequence determined to be excessive or not validly related to the nature or seriousness of the conduct.

(3) Youth may appeal disciplinary consequences issued through a Level II hearing by filing an appeal in accordance with §380.9555 of this chapter.

(4) Youth in medium-restriction facilities may appeal disciplinary consequences issued through a Level III hearing by filing an appeal in accordance with §380.9557 of this chapter.

(5) The findings and disposition from a rule-violation review are not grievable, but they may be appealed to the facility administrator or designee on the grounds that the youth did not commit the rule violation found proven during the review, that the consequence is not appropriate, or that the youth was not provided with the requisite notice or opportunity to be heard. If the result of a rule-violation review is overturned, that fact shall be documented appropriately.

(g) Major Rule Violations. It is a violation to knowingly commit, attempt to commit, direct someone to commit, or aid someone else in committing any of the following conduct. [~~:~~] Major rule violations are considered the most serious incidents and are categorized in the TJJD treatment hierarchy as life-threatening behavior targets; escape, abscond, and evasion behavior targets; or treatment-interfering or program-destroying behavior targets. Responsive treatment is based on the degree of interference or intrusiveness such conduct has on any youth's ability to effectively engage in treatment, including placing a youth on the egregious behavior protocol and other appropriate levels of intervention.

(1) Assault by Threat--intentionally or knowingly threatening another with imminent bodily injury.

(2) [~~(1)~~] Assault of Another Youth (No Injury)--intentionally, knowingly, or recklessly engaging in conduct with the intent to cause bodily injury to another youth but the conduct does not result in bodily injury.

(3) [~~(2)~~] Assault of Staff (No Injury)--intentionally, knowingly, or recklessly engaging in conduct with the intent to cause bodily injury to a staff member, contract employee, or volunteer with the intent to cause injury but the conduct does not result in bodily injury.

(4) [~~(3)~~] Assault Causing Bodily Injury to Another Youth--intentionally, knowingly, or recklessly engaging in conduct that causes another youth to suffer bodily injury.

(5) [~~(4)~~] Assault Causing Bodily Injury to Staff--intentionally, knowingly, or recklessly engaging in conduct that causes a staff member, contract employee, or volunteer to suffer bodily injury.

(6) [~~(5)~~] Attempted Escape--committing an act with specific intent to escape that amounts to more than mere planning that tends but fails to effect an escape.

(7) [~~(6)~~] Chunking Bodily Fluids--causing a person to contact the blood, seminal fluid, vaginal fluid, saliva, urine, and/or feces of another with the intent to harass, alarm, or annoy another person.

(8) Chunking Other Fluids--causing a person to contact any fluid or liquid not considered a bodily fluid with the intent to harass, alarm, or annoy another person.

(9) [~~(7)~~] Distribution of Prohibited Substances--distributing or selling any prohibited substances or items.

(10) [~~(8)~~] Escape--leaving a high-restriction residential placement without permission or failing to return from an authorized leave.

(11) [~~(9)~~] Extortion or Blackmail--demanding or receiving favors, money, actions, or anything of value from another in return for protection against others, to avoid bodily harm, or in exchange for not reporting a violation.

(12) [~~(10)~~] Failure to Comply with Electronic Monitoring Program Conditions (for Youth in Medium-Restriction Residential Placement)--failing to comply with one of the following conditions required by the youth's electronic monitoring program conditions:

(A) remain at the address listed at all designated times;

(B) follow curfew restriction as stated in the youth's conditions of placement or conditions of parole;

(C) remain at the approved placement while on electronic monitoring, going only to school, approved activities, religious functions, and medical/psychological appointments and then return to the approved placement, in accordance with the schedule identified in the conditions of placement or conditions of parole;

(D) wear the electronic monitoring device 24 hours a day;

(E) allow a TJJD staff member to enter the youth's residence to install, maintain, and inspect the device if required;

(F) notify the electronic monitoring officer as soon as possible within 24 hours if the youth experiences any problems with the electronic monitoring system; and

(G) charge the device daily for a minimum of one hour continuously in the morning and one hour continuously in the evening.

(13) [~~(11)~~] Fighting Not Resulting in Bodily Injury--engaging in a mutually instigated physical altercation with another person or persons that does not result in bodily injury.

(14) [~~(12)~~] Fighting That Results in Bodily Injury--engaging in a mutually instigated physical altercation with another person or persons that results in bodily injury.

(15) [~~(13)~~] Fleeing Apprehension--running from or refusing to come to staff when called and such act results in disruption of facility operations.

(16) [~~(14)~~] Misuse of Medication--using medication provided to the youth by authorized personnel in a manner inconsistent with specific instructions for use, including removing the medication from the dispensing area.

(17) Obstruction or Retaliation--intentionally or knowingly threatening to harm another person on account of that person's status as a public servant or to prevent or delay the service of another person as a public servant, prospective witness, or informant.

(18) [~~(15)~~] Participating in a Major Disruption of Facility Operations--intentionally engaging in conduct that poses a threat to persons or property and substantially disrupts the performance of facility operations or programs.

(19) [~~(16)~~] Possessing, Selling, or Attempting to Purchase Ammunition--possessing, selling, or attempting to purchase ammunition.

(20) [~~(17)~~] Possession of Prohibited Items--possessing the following prohibited items:

(A) cellular telephone;

(B) matches or lighters;

(C) jewelry, unless allowed by facility rules;

(D) money in excess of the amount or in a form not permitted by facility rules (see §380.9555 of this chapter for procedures concerning seizure of such money);

(E) pornography;

(F) items which have been fashioned to produce tattoos or body piercing;

(G) cleaning products when the youth is not using them for a legitimate purpose; or

(H) other items that are being used inappropriately in a way that poses a danger to persons or property or threatens facility security.

(21) [~~(18)~~] Possessing, Selling, or Attempting to Purchase a Weapon--possessing, selling, or attempting to purchase a weapon or an item that has been made or adapted for use as a weapon.

(22) [~~(19)~~] Possession or Use of Prohibited Substances and Paraphernalia--possessing or using any unauthorized substance, including controlled substances or intoxicants, medications not prescribed for the youth by authorized medical or dental staff, alcohol, tobacco products, or related paraphernalia such as that used to deliver or make any prohibited substance.

(23) [~~(20)~~] Refusing a Drug Screen--refusing to take a drug screen when requested to do so by staff or tampering with or contaminating the urine sample provided for a drug screen. Note: If the youth says he/she cannot provide a sample, the youth shall be given water to drink and two hours to provide the sample.

(24) [~~(21)~~] Refusing a Search--refusing to submit to an authorized search of person or area.

(25) [~~(22)~~] Repeated Non-Compliance with a Written, Reasonable Request of Staff (for Youth in Medium-Restriction Residential Placement)--failing on two or more occasions to comply with a specific written, reasonable request of staff. If the request requires the youth to do something daily or weekly, the two failures to comply must be within a 30-day period. If the request requires the youth to do something monthly, the two failures to comply must be within a 60-day period.

(26) [~~(23)~~] Sexual Misconduct--intentionally or knowingly engaging in any of the following:

(A) causing contact, including penetration (however slight), between the penis and the vagina or anus; between the mouth and penis, vagina or anus; or penetration (however slight) of the anal or genital opening of another person by hand, finger, or other object;

(B) touching or fondling, either directly or through clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of another person;

(C) kissing for sexual stimulation;

(D) exposing the anus, buttocks, breasts, or genitals to another or exposing oneself knowing the act is likely to be observed by another person; or

(E) masturbating in an open and obvious way, whether or not the genitals are exposed.

(27) [~~(24)~~] Stealing--intentionally taking property with an estimated value of $100 or more from another without permission.

(28) [~~(25)~~] Tampering with Monitoring Equipment--a youth intentionally or knowingly tampers with monitoring equipment assigned to any youth.

(29) [~~(26)~~] Tampering with Safety Equipment--intentionally tampering with, damaging, or blocking any device used for safety or security of the facility. This includes, but is not limited to, any locking device or item that provides security access or clearance, any fire alarm or fire suppression system or device, video camera, radio, telephone (when the tampering prevents it from being used as necessary for safety and/or security), handcuffs, or shackles.

(30) [~~(27)~~] Tattooing/Body Piercing--engaging in tattooing or body piercing of self or others. Tattooing is defined as making a mark on the body by inserting pigment into the skin.

(31) [~~(28)~~] Threatening Another with a Weapon--intentionally and knowingly threatening another with a weapon. A weapon is something that is capable of inflicting bodily injury in the manner in which it is being used.

(32) [~~(29)~~] Unauthorized Absence--leaving a medium-restriction residential placement without permission or failing to return from an authorized leave.

(33) [~~(30)~~] Vandalism--intentionally causing $100 or more in damage to state property or personal property of another.

(34) [~~(31)~~] Violation of Any Law--violating a Texas or federal law that is not already defined as a major or minor rule violation.

(h) Minor Rule Violations. It is a violation to knowingly commit, attempt to commit, direct someone to commit, or aid someone else in committing any of the following conduct. [~~:~~] In terms of the TJJD treatment hierarchy, minor rule violations are considered treatment-interfering behavior targets, program-destroying behavior targets, or quality-of-life-interfering behavior targets.

(1) Breaching Group Confidentiality--disclosing or discussing information provided in a group session to another person not present in that group session.

(2) Disruption of Program--engaging in behavior that requires intervention to the extent that the current program of the youth and/or others is disrupted. This includes, but is not limited to:

(A) disrupting a scheduled activity;

(B) being loud or disruptive without staff permission;

(C) using profanity or engaging in disrespectful behavior toward staff or peers; or

(D) refusing to participate in a scheduled activity or abide by program rules.

(3) Failure to Abide by Dress Code--failing to follow the rules of dress and appearance as provided by facility rules.

(4) Failure to do Proper Housekeeping--failing to complete the daily chores of cleaning the living environment to the expected standard.

(5) Gang Activity--participating in an activity or behavior that promotes the interests of a gang or possessing or exhibiting anything related to or signifying a gang, such as, but not limited to, gang-related literature, symbols, or signs.

(6) Gambling or Possession of Gambling Paraphernalia--engaging in a bet or wager with another person or possessing paraphernalia that may be used for gambling.

(7) Horseplay--engaging in wrestling, roughhousing, or playful interaction with another person or persons that does not rise to the level of an assault. Horseplay does not result in any party getting upset or causing injury to another.

(8) Improper Use of Telephone/Mail/Computer--using the mail, a computer, or the telephone system for communication that is prohibited by facility rules, at a time prohibited by facility rules, or to inappropriately access information.

(9) Lending/Borrowing/Trading Items--lending or giving to another youth, borrowing from another youth, or trading with another youth possessions, including food items, without permission from staff.

(10) Lying/Falsifying Documentation/Cheating--lying or withholding information from staff, falsifying a document, and/or cheating on an assignment or test.

(11) Possession of an Unauthorized Item--possessing an item the youth is not authorized to have (possession of which is not a major rule violation), including items not listed on the youth's personal property inventory. This does not include personal letters or photographs.

(12) Refusal to Follow Staff Verbal Instructions--deliberately failing to comply with a specific reasonable verbal instruction made by a staff member.

(13) Stealing--intentionally taking property with an estimated value under $100 from another without permission.

(14) Threatening Others--making verbal or physical threats toward another person or persons.

(15) Unauthorized Physical Contact with Another Youth (No Injury)--intentionally making unauthorized physical contact with another youth without the intent to cause injury and that does not cause injury, such as, but not limited to, pushing, poking, or grabbing.

(16) Unauthorized Physical Contact with Staff (No Injury)--intentionally making unauthorized physical contact with a staff member, contract employee, or volunteer without the intent to cause injury and that does not cause injury, such as, but not limited to, pushing, poking, and grabbing.

(17) Undesignated Area--being in any area without the appropriate permission to be in that area.

(18) Vandalism--intentionally causing less than $100 in damage to state or personal property.

§380.9504. Rules and Consequences for Youth on Parole.

(a) Purpose. This rule establishes the actions that constitute violations of the rules of conduct youth are expected to follow while under parole supervision. Violations of the rules may result in disciplinary consequences, including revocation of parole, that are proportional to the severity and extent of the violation. Appropriate due process must be followed before imposing consequences.

(b) Applicability.

(1) This rule applies to youth on parole status who are assigned to a home placement.

(2) For parole revocation purposes, this rule also applies to youth on parole status who are assigned to a residential placement as a home substitute. However, this rule does not apply to the daily rules of

conduct for these youth. For the daily rules of conduct, see §380.9503 of this chapter.

(c) General Provisions.

(1) Conditions of parole are provided to the youth before release on parole.

(2) Conditions of parole, including the rules of conduct, are reviewed with youth when they initially meet with their parole officers and at other times as necessary.

(3) Repeated violations of any rule of conduct may result in more serious disciplinary consequences.

(d) Definition [~~Definitions~~]. Possession--actual care, custody, control, or management. It does not require the item to be on or about the youth's person.

(e) Parole Rule Violations. It is a violation to knowingly commit, attempt to commit, or aid someone else in committing any of the following conduct.[~~:~~] Parole rule violations are categorized in the TJJD treatment hierarchy based on the degree of interference or intrusiveness such conduct has on any youth's ability to effectively engage in treatment.

(1) Abscond--leaving a home placement or failing to return from an authorized leave when:

(A) the youth's parole officer did not give permission; and

(B) the youth's whereabouts are unknown to the youth's parole officer.

(2) Failure to Comply with Electronic Monitoring Program Conditions--failing to comply with one of the following conditions required by the youth's electronic monitoring program conditions:

(A) remain at the address listed at all designated times;

(B) follow curfew restriction as stated in the youth's conditions of placement or conditions of parole;

(C) remain at the approved placement while on electronic monitoring, going only to school, approved activities, religious functions, and medical/psychological appointments and then return to the approved placement, in accordance with the schedule identified in the conditions of placement or conditions of parole;

(D) wear the electronic monitoring device 24 hours a day;

(E) allow a TJJD staff member to enter the youth's residence to install, maintain, and inspect the device if required;

(F) notify the electronic monitoring officer as soon as possible within 24 hours if the youth experiences any problems with the electronic monitoring system; and

(G) charge the device daily for a minimum of one hour continuously in the morning and one hour continuously in the evening.

(3) Failure to Comply with Sex Offender Conditions of Parole--intentionally or knowingly failing to comply with one of the following conditions present in the youth's sex offender conditions of parole addendum:

(A) do not have unsupervised contact with children under the age specified by the conditions of parole;

(B) do not babysit or participate in any activity where the youth is responsible for supervising or disciplining children under the age specified by the conditions of parole; or

(C) do not initiate physical contact or touching of any kind with a child, victim, or potential victim.

(4) Failure to Report an Arrest or Citation--failing to report an arrest or receipt of a citation to the youth's parole officer within 24 hours of arrest or citation.

(5) Participating in a Major Disruption of Facility Operations--intentionally engaging in conduct that poses a threat to persons or property and substantially disrupts the performance of facility operations or programs. (This parole violation applies only to youth assigned to a residential placement as a substitute for home placement.)

(6) Possessing, Selling, or Attempting to Purchase Ammunition--possessing, selling, or attempting to purchase ammunition.

(7) Possessing, Selling, or Attempting to Purchase a Weapon--possessing, selling, or attempting to purchase a weapon or an item that has been made or adapted for use as a weapon.

(8) Refusing a Drug Screen--refusing to take a drug screen when requested to do so by staff or tampering with or contaminating the urine sample provided for a drug screen.

(9) Repeated Non-Compliance with a Written, Reasonable Request of Staff--failing on two or more occasions to comply with a specific condition of release under supervision and/or a specific written, reasonable request of staff. If the request requires the youth to do something daily or weekly, the two failures to comply must be within a 30-day period. If the request requires the youth to do something monthly, the two failures to comply must be within a 60-day period.

(10) Photos, Videos, or Social Media Posts with Weapon, Ammunition, or Unauthorized Substance--appearing in photos, videos, or other images, whether or not posted to social media, with any weapon, ammunition, or unauthorized substance or related paraphernalia, including any object that reasonably resembles a weapon, ammunition, or unauthorized substance or related paraphernalia. The term weapon includes, but is not limited to, guns, explosive devices, knives, blades, and clubs. The term related paraphernalia includes, but is not limited to, items used to make or deliver unauthorized substances.

(11) Tampering with Monitoring Equipment--a youth intentionally or knowingly tampers with monitoring equipment assigned to any youth.

(12) Unauthorized Absence--leaving a medium-restriction residential placement without permission or failing to return from an authorized leave.

(13) Possession or Use of Unauthorized Substances--possessing, ingesting, inhaling, or otherwise consuming any unauthorized substance, including controlled substances or intoxicants, medications not prescribed for the youth by authorized medical or dental staff, alcohol or tobacco products, or related paraphernalia such as that used to deliver or make any unauthorized substance.

(14) Violation of Any Law--violating a federal or state law or municipal ordinance.

(f) Possible Consequences.

(1) A parole rule violation may result in a Level I hearing or a Level hearing conducted in accordance with §380.9551 or §380.9557 of this chapter, respectively.

(A) This subparagraph applies only to youth alleged to have engaged in conduct classified as a first- or second-degree felony while on parole. Except as provided by this subparagraph, a Level I hearing shall be requested on these youth. The hearing may be deferred when requested by local prosecutors, as provided in §380.9551 of this chapter. The designated staff person may determine that, given all circumstances, a Level I hearing is not appropriate. Such decision shall be documented. If a Level I hearing is held and the youth's parole is revoked, the youth shall be reviewed for the most restrictive setting appropriate, including the intervention program described by §380.9510 of this chapter.

(B) Parole officers are encouraged to be creative in determining a consequence appropriate to address and correct the youth's behavior. Staff should use evidence-based interventions that relate to the youth's risk, needs, and responsivity when appropriate. All assigned consequences should be related to the misconduct when possible.

(2) Consequences through a Level hearing for a youth on parole include, but are not limited to:

(A) Verbal Reprimand--conference with a youth including a verbal reprimand that draws attention to the misbehavior and serves as a warning that continued misbehavior could result in more severe consequences.

(B) Curfew Restriction--an immediate change in existing curfew requirements outlined in the youth's conditions of parole.

(C) Community Service Hours--disciplinary assignment of a specific number of hours the youth is to perform community service in addition to the hours assigned when the youth was placed on parole. In no event may more than 20 community service hours be assigned through a Level hearing.

(D) Increased Level of Supervision--an assigned increase in the number of primary contacts between the youth and parole officer in order to increase the youth's accountability.

(E) Electronic Tracking--assignment to a system that electronically tracks a youth's movement and location.

(F) Writing Assignment--an assignment designed for the youth to address the misbehavior and identify appropriate behavior in similar situations.

(3) Consequences through a Level I hearing for a youth on parole, including youth assigned to a residential placement as a home substitute, include:

(A) parole revocation and placement in any high- or medium-restriction program operated by or under contract with the Texas Juvenile Justice Department; and

(B) assignment of a length of stay consistent with §380.8525 of this chapter.

§380.9505. Egregious Behavior Protocol.

(a) Purpose. The Texas Juvenile Justice Department (TJJD) addresses disruptive or unsafe youth behavior by using appropriate levels of intervention, including the egregious behavior protocol.

(b) Applicability.

(1) This rule applies to high-restriction facilities.

(2) This rule does not supersede requirements established by other policies and procedures regarding self-harming or suicidal behavior and ideation.

(c) General Provisions.

(1) Placing a youth out-of-program, as described in this procedure, is used to maintain safety and is not considered a disciplinary consequence.

(2) Being out-of-program includes the following stipulations:

(A) The youth programs individually during group activities on the dorm, generally in an assigned seat. Time is spent working on treatment assignments (e.g., completing Behavior Chain Analysis, practicing skills, working on correction), often with staff assistance.

(B) The youth cannot approach other youth or leave the assigned seat without staff permission.

(C) Other youth cannot approach the out-of-program youth without staff permission.

(D) Recreation is individual, if staffing permits.

(E) Stage privileges do not apply.

(F) Direct-care staff:

(i) assign treatment work, including Behavior Chain Analysis;

(ii) assist the youth with practicing skills to use the next time a similar situation occurs; and

(iii) document the youth's progress, focusing on a behavioral description of the youth's level of engagement and motivation to complete treatment work.

(d) Placing Youth Out-of-Program- Egregious Behavior Protocol.

(1) A direct-care staff member may place the youth on the Egregious Behavior Protocol and the youth is considered out-of-program when: a youth fails to respond positively to redirection from staff, maladaptive behavior escalates, and/or the youth engages in behavior that creates an immediate danger to safety or security or that prevents others from receiving programming.

(2) The staff member:

(A) tells the youth that the youth is out-of-program;

(B) explains the requirements associated with being out-of-program and expectations to return to programming;

(C) gives the youth an opportunity to address the maladaptive behavior and use skillful behavior, including the completion of a Behavior Chain Analysis; and

(D) documents a summary of the incident and engagement strategies.

(e) Additional Safety-Based Measures. Additional safety-based measures may include, but are not limited to:

(1) assigning color-coded clothing to indicate a high risk for unsafe behavior or aggression;

(2) placing the youth on a behavior plan or safety plan; or

(3) referral to a program in the Intervention Program.

(f) Returning Youth to Regular Programming.

(1) Removing the youth from out-of-program status is based on the youth completing all treatment assignments and verbally committing to safe behavior and/or using skills to avoid disruptive behavior. Other factors, such as the youth's level of commitment to work on target behaviors and to make progress in treatment, are considered.

(2) Designated staff members:

(A) review documentation of the youth's behavior;

(B) decide when to remove the youth from out-of-program status; and

(C) document the youth's return to regular programming.

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 August 5, 2026.

TRD-202603302
Jana Jones
General Counsel
Texas Juvenile Justice Department
Earliest possible date of adoption: September 20, 2026
For further information, please call: (512) 490-7130

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PART 13. TEXAS COMMISSION ON FIRE PROTECTION

CHAPTER 439. EXAMINATIONS FOR CERTIFICATION

SUBCHAPTER A. EXAMINATIONS FOR ON-SITE DELIVERY TRAINING

37 TAC §439.1

The Texas Commission on Fire Protection (Commission) proposes an amendment to 37 Texas Administrative Code, Chapter 439, Examinations for Certification, concerning §439.1, Requirements--General.

Background and Purpose

The purpose of the proposed amendment is to remove the subsection establishing a two-section examination structure for Basic Fire Inspector certification from §439.1. The Basic Fire Inspector examination requirements are addressed elsewhere in commission rules. The removal of this subsection results in conforming re-lettering of existing subsections (h) through (n) to (g) through (m), with no substantive change to the text of those subsections.

Fiscal Note and Impact on State and Local Government

Michael Wisko, Agency Chief, has determined that for each year of the first five-year period this rule is in effect, there will be no fiscal impact on state or local government as a result of enforcing or administering the rule.

Public Benefit and Cost Note

Mr. Wisko has also determined that for each of the first five years this rule is in effect, the anticipated public benefit will be improved clarity and consistency in commission rules. There are no anticipated economic costs to individuals required to comply with the proposed rule.

Local Economy Impact Statement

There is no anticipated effect on local employment or the local economy for the first five years the rule is in effect; therefore, no local employment impact statement is required under Texas Government Code §2001.022.

Economic Impact on Small Businesses, Micro-Businesses, and Rural Communities

The Commission has determined that there will be no effect on small or micro-businesses or rural communities as a result of implementing this rule; therefore, no economic impact statement or regulatory flexibility analysis is required under Texas Government Code §2006.002.

Government Growth Impact Statement

Under Texas Government Code §2001.0221, the Commission has determined that during the first five years the rule is in effect:

The rule will not create or eliminate a government program;

The rule will not create or eliminate any existing employee positions;

The rule will not require an increase or decrease in future legislative appropriations;

The rule will not result in an increase or decrease in fees paid to the agency;

The rule will not create a new regulation;

The rule will not expand, limit, or repeal an existing regulation;

The rule will not increase the number of individuals subject to the rule; and

The rule is not anticipated to have an adverse effect on the state's economy.

Takings Impact Assessment

The Commission has determined that the proposed rule does not restrict or burden private real-property rights and therefore does not constitute a taking under Texas Government Code §2007.043.

Costs to Regulated Persons

The proposed rule does not impose additional costs on regulated persons, including another state agency, a special district, or a local government, and therefore is not subject to Texas Government Code §2001.0045.

Environmental Impact Statement

The Commission has determined that the proposed rule does not require an environmental impact analysis because the rule is not a major environmental rule under Texas Government Code §2001.0225.

Request for Public Comment

Comments on the proposed rule may be submitted in writing within 30 days of publication of this notice in the *Texas Register* to:

Frank King, General Counsel

Texas Commission on Fire Protection

P.O. Box 2286, Austin, Texas 78768

Email: frank.king@tcfp.texas.gov

Statutory Authority

The proposed amendment is authorized by Texas Government Code §§419.008 and 419.032, which authorize the Commission to adopt rules for the administration of its statutory responsibilities.

Cross Reference to Statute: Texas Government Code, Chapter 419.

§439.1. Requirements--General.

(a) The administration of examinations for certification, including performance skill evaluations, shall be conducted in compliance with commission rules and; as applicable, with:

(1) International Fire Service Accreditation Congress (IFSAC) regulations; or

(2) National Board on Fire Service Professional Qualifications (Pro Board) regulations for examinations administered by the Texas A&M Engineering Extension Service. Only Pro Board examinations administered by the Texas A&M Engineering Extension Service will be accepted by the commission for certification. In order for a Pro Board document to be accepted for certification, it must:

(A) List the commission issued course approval number for which the examination was conducted;

(B) Indicate that the examination was conducted in English; and

(C) List any special accommodations provided to the examinee. The commission may not issue a certificate for an examination conducted under special accommodations other than those specified in §439.13 of this title (relating to Special Accommodations for Testing).

(b) It is incumbent upon commission staff, committee members, training officers and field examiners to maintain the integrity of the state certification examination process (or portion thereof) for which they are responsible.

(c) The commission shall reserve the authority to conduct an annual review of Pro Board examinations, procedures, test banks, and facilities utilized by the Texas A&M Engineering Extension Service. The commission may also conduct a review at any time for cause and as deemed necessary to ensure the integrity of the certification examination process.

(d) Exams will be based on the job performance requirements and knowledge and skill components of the applicable NFPA standard for that discipline, if a standard exists and has been adopted by the commission. If a standard does not exist or has not been adopted by the commission, the exam will be based on curricula as currently adopted in the commission's Certification Curriculum Manual.

(e) Commission examinations that receive a passing grade shall expire two years from the date of the examination.

(f) An examination for Basic Structure Fire Protection shall consist of four sections: Fire Fighter I, Fire Fighter II, Hazardous Materials Awareness Level, and Hazardous Materials Operations Level including the Mission-Specific Competencies for Personal Protective Equipment and Product Control. The examinee must pass each section of the examination with a minimum score of 70% in order to qualify for certification.

[~~(g) An examination for Basic Fire Inspector shall consist of two sections: Inspector I, and Inspector II. The examinee must pass each section of the examination with a minimum score of 70% in order to qualify for certification.~~]

<u>(g)</u> [~~(h)~~] An examination for Basic Structure Fire Protection and Intermediate Wildland Fire Protection shall consist of five sections: Fire Fighter I, Fire Fighter II, First Responder Awareness, First Responder Operations, and Intermediate Wildland Fire Protection. The examinee must pass each section of the examination with a minimum score of 70% in order to qualify for certification.

<u>(h)</u> [~~(i)~~] All other state examinations consist of only one section.

<u>(i)</u> [~~(j)~~] The individual who fails to pass a commission examination for state certification will be given one additional opportunity to pass the examination or section(s) thereof. This opportunity must be exercised within 180 days after the date of the first failure. An examinee who fails to pass the examination within the required time may not sit for the same examination again until the examinee has re-qualified by repeating the curriculum applicable to that examination.

<u>(j)</u> [~~(k)~~] An individual may obtain a new certificate in a discipline which was previously held by passing a commission proficiency examination.

<u>(k)</u> [~~(l)~~] If an individual who has never held certification in a discipline defined in §421.5 of this title (relating to Definitions), seeks certification in that discipline, the individual shall complete all certification requirements.

<u>(l)</u> [~~(m)~~] If an individual completes a commission approved training program, or a program that has been evaluated and deemed equivalent to a certification curriculum approved by the commission, such as an out-of-state or military training program or a training program administered by the State Firemen's and Fire Marshals' Association of Texas, the individual may use only one of the following examination processes for certification:

(1) pass a commission examination; or

(2) submit documentation of the successful completion of the Pro Board examination process administered by the Texas A&M Engineering Extension Service; and

(3) meet any other certification requirements in order to become eligible for certification as fire protection personnel.

(4) An individual cannot use a combination of the two examination processes in this subsection from a single commission approved class for certification. An individual who chooses to submit to the commission examination process may not utilize the other process toward certification.

<u>(m)</u> [~~(n)~~] An individual or entity may petition the commission for a waiver of the examination required by this section if the person's certificate expired because of the individual's or employing entity's good faith clerical error or expired as a result of termination of the person's employment where the person has been restored to employment through a disciplinary procedure or a court action. All required renewal fees including applicable late fees and all required continuing education must be submitted before the waiver request may be considered.

(1) Applicants claiming good faith clerical error must submit a sworn statement together with any supporting documentation that evidences the applicant's good faith efforts to comply with commission renewal requirements and that failure to comply was due to circumstances beyond the control of the applicant.

(2) Applicants claiming restoration to employment as a result of a disciplinary or court action must submit a certified copy of the order, ruling or agreement restoring the applicant to employment.

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 August 10, 2026.

TRD-202603364
Mike Wisko
Agency Chief
Texas Commission on Fire Protection
Earliest possible date of adoption: September 20, 2026
For further information, please call: (512) 936-3812

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TITLE 40. SOCIAL SERVICES AND ASSISTANCE

PART 5. TEXAS VETERANS LAND BOARD

CHAPTER 177. VETERANS HOUSING ASSISTANCE PROGRAM [~~AND VETERANS HOME IMPROVEMENT PROGRAM~~]

40 TAC §§177.3, 177.5, 177.8

The Texas Veterans Land Board (Board) proposes amendments to Texas Administrative Code, Title 40, Part 5, Chapter 177, §177.3, concerning Administration of Fund, §177.5. Loan Eligibility Requirements, and §177.8. Qualifying Homes.

At its July 28, 2026 Special Called Meeting and based on staff recommendations, the Board voted unanimously to i) discontinue offering loans under its Veterans Home Improvement Loan Program (Program), and relatedly, to ii) to approve these proposed amendments. These proposed amendments remove references to the Program as follows:

The proposed amendments to §177.3 remove a requirement that the Board make funds available for its Veterans Housing Assistance Program to make home improvement loans.

The proposed amendments to §177.5 remove language allowing veterans to obtain a purchase money loan and a home improvement loan under the Veterans Housing Assistance Program.

The proposed amendments to §177.8 remove a subsection allowing veterans to obtain home improvement loans and calling on the Board to adopt guidelines and loan amounts for applicants to the Program

In addition, the title of this chapter is changed to "Veterans Housing Assistance Program" to reflect the rules' revised subject matter.

FISCAL IMPACT ON STATE AND LOCAL GOVERNMENT: Pursuant to Texas Government Code, §2001.024(a)(4), Mr. Raul Gonzales, Director of the Board's Land and Housing Division, has determined that for the first five-year period the proposed amendments are in effect, there will be no fiscal implications for state or local government as a result of the proposed amendments.

PUBLIC BENEFITS AND PROBABLE ECONOMIC COSTS: Pursuant to Texas Government Code, §2001.024(a)(5), Mr. Gonzales has determined that for each year of the first five years the proposed amendments are in effect, there will be no economic effects on businesses or individuals. The public benefit will be the availability additional resources for Board programs to more effectively serve the state's veterans.

TAKINGS IMPACT ASSESSMENT: The amended section does not contemplate or authorize a taking by the Board; therefore, no Takings Impact Assessment is required under Texas Government Code, §2007.043.

LOCAL EMPLOYMENT IMPACT STATEMENT: Mr. Gonzales has determined that the proposed amendments will not affect a local economy, so the Board is not required to prepare a local employment impact statement under Texas Government Code, §2001.022.

FISCAL IMPACT ON SMALL BUSINESSES, MICRO-BUSINESSES, AND RURAL COMMUNITIES: The Board has determined there will be no adverse economic effect on small businesses, micro-businesses, or rural communities due to the proposed amendments, therefore preparation of an economic impact statement and a regulatory flexibility analysis under Texas Government Code, §2006.002, is not required.

GOVERNMENT GROWTH IMPACT STATEMENT: Pursuant to Texas Government Code, §2001.0221, Mr. Gonzales provides the following Government Growth Impact Statement for the proposed amendments. For each of the first five years the proposed amendments will be in effect:

(1) the proposed amendments will eliminate a government program – the Board's Home Improvement Loan Program;

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

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

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

(5) the proposed amendments do not create a new regulation;

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

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

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

PUBLIC COMMENT REQUEST: Written comment on the proposed amendments may be submitted by mail to Mr. Walter Talley, *Texas Register* Liaison, Texas General Land Office, P.O. Box 12873, Austin, Texas 78711, facsimile number (512) 463-6311 or email to walter.talley@glo.texas.gov. Written comments must be received no later than thirty (30) days from the date of publication of the proposed amendments in the *Texas Register*.

The amendments are proposed pursuant to Section 162.003 of the Texas Natural Resources Code, which requires the Board to adopt rules governing the administration of the veterans housing assistance fund and the Veterans' Housing Assistance Program and the creation of Program-related loans. The Code affected by the proposed amendments is Chapter 162 of the Texas Natural Resources Code.

§177.3. Administration of Fund.

(a) (No change.)

(b) After the requirements of subsection (a) of this section have been satisfied, the board, with the assistance of the administrator, shall monitor the cash flow requirements of the program and shall administer the fund to:

(1) meet all bond repayment requirements; and

(2) make money available as needed by the program to make or acquire home loans as provided by the Texas Natural Resources Code, (Code) Chapter 162, and this chapter. [~~chapter; and~~]

[~~(3) make money available as needed by the program to make home improvement loans as provided by § 177.8 of this chapter (relating to Qualifying Homes).~~]

(c) - (f) (No change.)

§177.5. Loan Eligibility Requirements.

(a) - (b) (No change.)

(c) A veteran may be able to obtain more than one housing assistance loan under this chapter, provided that all previous program loans have been repaid in full and that only one home may be financed by a veteran at any time through the program. [~~However, for purposes of this chapter, an eligible veteran may obtain both a purchase money loan and a home improvement loan under the program.~~] An eligible veteran may also receive a loan under the Veterans Land Program.

(d) (No change.)

§177.8. Qualifying Homes.

(a) - (d) (No change.)

[~~(e) The home in which a veteran actually resides may be eligible for a home improvement loan if the home and the veteran meet the qualification requirements established by the board for a home improvement loan. The board will adopt guidelines setting forth the requirements for obtaining a home improvement loan through the program, whether FHA Title I or other. The guidelines will be provided to all participating lending institutions. The board shall establish the maximum loan amounts for home improvement loans by 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.

Filed with the Office of the Secretary of State on August 7, 2026.

TRD-202603329
Jennifer Jones
Chief Clerk & Deputy Land Commissioner
Texas Veterans Land Board
Earliest possible date of adoption: September 20, 2026
For further information, please call: (512) 475-1859

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