

ADOPTED RULES

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

TITLE 16. ECONOMIC REGULATION

PART 2. PUBLIC UTILITY COMMISSION OF TEXAS

CHAPTER 24. SUBSTANTIVE RULES APPLICABLE TO WATER AND SEWER SERVICE PROVIDERS

SUBCHAPTER F. CUSTOMER SERVICE AND PROTECTION

16 TAC §24.167

The Public Utility Commission of Texas (commission) adopts amendments to 16 Texas Administrative Code (TAC) §24.167 relating to Discontinuance of Service with no changes to the proposed text as published in the July 25, 2025 issue of the *Texas Register* (50 TexReg 4147). The rule will not be republished. Unamended §24.167 specified "[p]ayment by check which has been rejected for insufficient funds ..." which leaves other forms of payment unaddressed. Similarly, the tariff forms had a "returned check charge" line item, but did not specify what happens if a customer's credit card or debit card payment is declined. The adopted rule removes the word "check" in reference to rejected payments to clarify that other forms of rejected payments are included. The amendment is adopted under Project No. 58270.

The commission received no comments in regard to this project and adopts the rule with no changes to the proposal.

Statutory Authority

The amendment is proposed under Texas Water Code (TWC) §13.001, which provides the commission jurisdiction over a water and sewer utility; §13.004, which provides the commission with jurisdiction over certain water supply or sewer service corporations; §13.041(b), which provides the commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction.

Cross reference to statutes: Texas Water Code §13.001, 13.004, and 13.041(b).

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

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For further information, please call: (512) 936-7244

PART 4. TEXAS DEPARTMENT OF LICENSING AND REGULATION

CHAPTER 118. LASER HAIR REMOVAL

The Texas Commission of Licensing and Regulation (Commission) adopts new rules at 16 Texas Administrative Code (TAC), Chapter 118, Subchapter A, §§118.1 - 118.3; Subchapter B, §§118.10, 118.12, and 118.14; Subchapter C, §§118.20, 118.21, 118.27 - 118.29; Subchapter D, §118.30; Subchapter G, §118.60 and §118.61; Subchapter H, §118.70; and Subchapter I, §118.80 and §118.81; and adopts the repeal of existing rules at §§118.1 - 118.3, 118.10, 118.20, 118.30 - 118.35, 118.40, 118.50, 118.60, 118.61, 118.70, 118.71, 118.80, 118.90, 118.91, 118.100, and 118.110, with the addition of subchapters to an existing chapter, regarding the Laser Hair Removal program, without changes to the proposed text as published in the May 30, 2025, issue of the *Texas Register* (50 TexReg 3171). These rules will not be republished.

The Commission also adopts new rules at 16 TAC Chapter 118, Subchapter A, §118.4; Subchapter B, §118.11 and §118.13; Subchapter C, §§118.22, 118.25, and 118.26; Subchapter E, §118.40; and Subchapter F, §118.50 and §118.51, regarding the Laser Hair Removal program, with changes to the proposed text as published in the May 30, 2025, issue of the *Texas Register* (50 TexReg 3171). These rules will be republished.

EXPLANATION OF AND JUSTIFICATION FOR THE RULES

The rules under 16 TAC, Chapter 118, implement Texas Health and Safety Code, Chapter 401, Subchapter M, Laser Hair Removal; and Texas Occupations Code, Chapter 51, the enabling statute of the Texas Commission of Licensing and Regulation (Commission) and the Department.

The adopted rules are necessary to implement changes recommended as a result of the required four-year rule review conducted under Texas Government Code §2001.039. The Department's Notice of Intent to Review 16 TAC, Chapter 118, was published in the September 3, 2021, issue of the *Texas Register* (46 TexReg 5597). At its meeting on January 25, 2022, the Commission readopted the rule chapter in its entirety without changes. The readoption notice was published in the February 25, 2022, issue of the *Texas Register* (47 TexReg 988). The Department

did not receive any public comments in response to the Notice of Intent to Review.

The adopted rules include changes recommended by Department staff during the rule review process to reorganize and streamline the entire chapter. These recommendations include changes to consolidate the existing rules, reorganize provisions by subject matter, eliminate duplicative provisions, and apply plain language principles to improve clarity.

SECTION-BY-SECTION SUMMARY

The adopted rules repeal all sections under 16 TAC, Chapter 118, which include §§118.1 - 118.3; 118.10; 118.20; 118.30 - 118.35; 118.40; 118.50; 118.60; 118.61; 118.70; 118.71; 118.80; 118.90; 118.91; 118.100; and 118.110.

The adopted rules add new Subchapter A, General Provisions.

The adopted rules repeal existing §118.1, Authority. The provision in this repealed rule has been updated and supplemented under new §118.1.

The adopted rules add new §118.1, Authority. This new rule includes provisions from existing §118.1, which is being repealed, and establishes that Chapter 118 is promulgated under Texas Occupations Code, Chapter 51, and Texas Health and Safety Code, Chapter 401, Subchapter M.

The adopted rules repeal existing §118.2, Purpose.

The adopted rules repeal existing §118.3, Scope. The provision in this repealed rule has been updated and supplemented under new §118.2.

The adopted rules add new §118.2, Scope. This new rule includes provisions from existing §118.3, which is being repealed, and establishes who the chapter applies to and that a certification issued under this chapter only authorizes a person to perform nonablative cosmetic Laser Hair Removal (LHR). The adopted rules also establish that this chapter applies to a person who receives, possesses, uses, owns, or acquires an LHR device, even if that person does not hold an LHR facility license.

The adopted rules add new §118.3, Definitions. This new rule includes provisions from existing §118.10, which is being repealed, and adds several definitions, including "Alternate consulting physician," "Certifying entity," "Delegate," "LHR facility license," "Operate an LHR facility," "Serious injury," and "Training program." The adopted rules amend several definitions, including "Consulting physician," "Direct supervision," "Individual LHR Certification," "Laser hair removal procedure," "Operator," "Person," and "Physician." The adopted rules also remove several definitions, including "Applicant," "Certificate of LHR registration," "Certified individual," "Contract," "Laser safety officer," "Living quarters," "Mobile LHR facility," and "Registrant."

The adopted rules add new §118.4, Laser Hair Removal Procedure, and establish that a laser hair removal procedure involves removal of hair from four body areas. The adopted rules establish what areas of the body are considered one procedure, and what areas may be split into right and left sides and count as more than one single procedure if done simultaneously. A technical correction was made to the proposed rules as published to add punctuation missing from the end of §118.4(b)(4), which is reflected in the adopted rules.

The adopted rules add new Subchapter B, Laser Hair Removal Facility.

The adopted rules repeal existing §118.10, Definitions. The provision in this repealed rule has been updated and supplemented under new §118.3.

The adopted rules add new §118.10, LHR Facility--License Requirements and Application. This new rule includes provisions from existing §118.30, which is being repealed, and establishes that a separate LHR facility license is required for each LHR facility and establishes when an LHR facility license is not required. The adopted rules establish the eligibility requirements for an LHR facility license and establish that a person may not operate an LHR facility unless the person holds a license issued by the department.

The adopted rules add new §118.11, LHR Facility--License Term; Renewal. This new rule includes provisions from existing §118.40, which is being repealed, and establishes that an LHR facility license is valid for two years and establishes the process for renewing an LHR facility license. The adopted rules establish that an LHR facility must end the use of all LHR devices if the license is not renewed. A technical correction was made to the proposed rules as published to correct the punctuation at the end of §118.11(b)(2), which is reflected in the adopted rules.

The adopted rules add new §118.12, LHR Facility--Responsibilities. This new rule includes provisions from existing §118.31, which is being repealed, and establishes that a LHR facility must notify the department within 30 days after certain changes and must follow adverse reporting requirements. The adopted rules also establish the protocols if a LHR facility loses the services of the consulting physician and/or the alternate consulting physician. The adopted rules establish that a LHR facility must maintain a physical inventory of all devices; must maintain records of receipt, transfer, and disposal for each device; must not make false or misleading claims or advertisements; must post a warning sign containing radiation and complaint information. Lastly, the adopted rules establish that a LHR facility license is not transferable, and that the facility must not continue to offer services if the facility loses the services of the LHR professional.

The adopted rules add new §118.13, LHR Facility--Consulting Physician. This new rule includes provisions from existing §118.60, which is being repealed, and establishes the contents of the required written contract between a LHR facility and a consulting physician. The adopted rules establish the requirements of a protocol between the consulting physician and LHR facility and establish the contents of a protocol, including the level of licensure required for each LHR procedure. A minor style change was made to the proposed rules as published regarding the numerical reference under §118.13(a)(3), which is reflected in the adopted rules.

The adopted rules add new §118.14, LHR Facility--Audits. This new rule includes provisions from existing §118.61, which is being repealed, and establishes that the consulting physician must conduct audits of the LHR facility to verify that operations are being conducted in accordance with the protocols established by the contract. The adopted rules establish the requirements for an audit, including that it must be unannounced, it may be conducted by the consulting physician, and it must be recorded.

The adopted rules add new Subchapter C, Laser Hair Removal Individual Certification.

The adopted rules repeal existing §118.20, Prohibitions. The provision in this repealed rule has been updated and supplemented under new §118.50.

The adopted rules add new §118.20, LHR Individual Certification--Requirements and Application. This new rule includes provisions from existing §118.33, which is being repealed, and establishes the requirements that all applicants for an individual LHR certification must follow.

The adopted rules add new §118.21, LHR Individual Certification--Responsibilities. This new rule includes provisions from existing §118.33, which is being repealed, and establishes the responsibilities of certified individuals, including that certifications are not transferable, that each certification must be displayed in an open public area of the LHR facility, and that the certified individual must present proof of licensure or certification to the department, upon request.

The adopted rules add new §118.22, Certification Term; Renewal. This new rule includes provisions from existing §118.33, which is being repealed, and establishes that an individual certification issued by the department is valid for two years and establishes the requirements for renewing an individual LHR certification. A minor style change was made to the proposed rules as published regarding the numerical reference under §118.22(a), which is reflected in the adopted rules. A technical correction was also made to the proposed rules as published to change "license holder" to "certificate holder" under §118.22(d), which is reflected in the adopted rules.

The adopted rules add new §118.25, Continuing Education Requirements. This new rule includes provisions from existing §118.35, which is being repealed, and establishes that each individual who holds an individual LHR certification must obtain eight hours of continuing education per certification term on certain topics. The rules establish that the continuing education hours may be obtained online. A minor style change was made to the proposed rules as published regarding the numerical reference under §118.25(a), which is reflected in the adopted rules.

The adopted rules add new §118.26, LHR Individual Certification--Apprentice-in-Training. This new rule includes provisions from existing §118.33, which is being repealed, and establishes that an applicant for an apprentice-in-training certification must be at least 18 years old; have 40 hours of training in specific topics; and must submit proof of successful completion of a training program approved by the department. The adopted rules establish that an apprentice-in-training must not perform LHR procedures unless under the direct supervision of a senior LHR technician or a LHR professional. A minor style change was made to the proposed rules as published regarding the numerical reference under §118.26(a)(3)(A), which is reflected in the adopted rules.

The adopted rules add new §118.27, LHR Individual Certification--Technician. This new rule includes provisions from existing §118.33, which is being repealed, and establishes that an applicant for a LHR technician certification must hold a current apprentice-in-training certification and have performed at least 100 LHR procedures under the direct supervision of a senior LHR technician or a LHR professional within the 12 months of submitting an application. The adopted rules also establish the requirements of a supervisor who directly supervises the activities of a LHR Technician.

The adopted rules add new §118.28, LHR Individual Certification--Senior LHR Technician. This new rule includes provisions from existing §118.33 and §118.34, which are being repealed, and establishes that an applicant for a senior LHR technician

certification must hold a current LHR technician certification and have directly supervised at least 100 LHR procedures. The adopted rules also establish the requirements of a supervisor who performs the direct supervision activities of a senior LHR technician.

The adopted rules add new §118.29, LHR Individual Certification--LHR Professional. This new rule includes provisions from existing §118.33 and §118.34, which are being repealed, and establishes that an applicant for a LHR professional certification must hold a current senior LHR technician certification; be certified by a certifying entity approved by the department; and pass a department approved test. The adopted rules also establish the requirements of a supervisor who performs the direct supervision activities of a LHR professional.

The adopted rules add new Subchapter D, Apprentice Training Programs.

The adopted rules repeal existing §118.30, Laser Hair Removal Facility Certificate--Requirements and Application. The provision in this repealed rule has been updated and supplemented under new §118.10.

The adopted rules add new §118.30, Apprentice Training Programs. This new rule includes provisions from existing §118.33, which is being repealed, and establishes that training must be obtained from a department-approved training program and that programs must follow specific education requirements. The adopted rules establish the application requirements and eligibility requirements for training programs.

The adopted rules repeal existing §118.31, Laser Hair Removal Facility--Responsibilities. The provision in this repealed rule has been updated and supplemented under new §118.12.

The adopted rules repeal existing §118.32, Laser Safety Officer--Designation and Responsibilities.

The adopted rules repeal existing §118.33, Laser Hair Removal Individual Certificate--Requirements and Application. The provisions in this repealed rule have been updated and supplemented under new §118.20-§118.22 and §§118.26-118.30.

The adopted rules repeal existing §118.34, Laser Hair Removal Professionals and Senior Laser Hair Removal Technicians--Auditing and Supervision Requirements. The provisions in this repealed rule have been updated and supplemented under new §118.28 and §118.29.

The adopted rules repeal existing §118.35, Continuing Education Requirements. The provision in this repealed rule has been updated and supplemented under new §118.25.

The adopted rules add new Subchapter E, Requirements for Certifying Entities and Examinations.

The adopted rules repeal existing §118.40, License Terms; Renewals. The provision in this repealed rule has been updated and supplemented under new §118.11.

The adopted rules add new §118.40, Requirements for Certifying Entities and Examinations. This new rule includes provisions from existing §118.50, which is being repealed, and establishes the requirements a certifying entity must meet and establishes the requirements a certification program must meet. Minor style changes were made to the proposed rules as published regarding the two numerical references under §118.40(b)(6), which are reflected in the adopted rules.

The adopted rules add new Subchapter F, Laser Hair Removal Devices.

The adopted rules repeal existing §118.50, Requirements for Certifying Entities and Examinations. The provision in this repealed rule has been updated and supplemented under new §118.40.

The adopted rules add new §118.50, LHR Devices--General and Operating Requirements. This new rule includes provisions from existing §118.70, which is being repealed, and establishes requirements for use of an LHR device in an LHR facility, including minimum requirements for a prescription from a licensed physician for the purchase of an LHR device. The adopted rules include other requirements such as establishing a controlled area within a room in which LHR devices are used; that protective eyewear must be worn by all individuals using an LHR device and all individuals present; and that an LHR facility must not be used for living or sleeping purposes. Minor style changes were made to the proposed rules as published regarding the numerical references under §118.50(c)(6) and (i)(5), which are reflected in the adopted rules.

The adopted rules add new §118.51, LHR Devices--Stolen, Lost, or Missing. This new rule includes provisions from existing §118.71, which is being repealed, and establishes the procedures to report a stolen, lost, or missing device. The adopted rules establish the information that must be included in the report, including a description of the device and a description of the circumstances under which the loss occurred. Minor style changes were made to the proposed rules as published regarding the numerical references under §118.51(a), (b), and (c), which are reflected in the adopted rules.

The adopted rules add new Subchapter G, Records Requirements.

The adopted rules repeal existing §118.60, Consulting Physician--Responsibilities and Protocols. The provision in this repealed rule has been updated and supplemented under new §118.13.

The adopted rules add new §118.60, Records Retention Requirements. This new rule includes provisions from existing §118.100, which is being repealed, and establishes that records must be properly maintained, made available upon department request, and retained for specific amounts of time.

The adopted rules repeal existing §118.61, Consulting Physician--Audits of LHR Facility Protocols and Operations. The provision in this repealed rule has been updated and supplemented under new §118.14.

The adopted rules add new §118.61, Disclosures and Confidentiality Requirements. This new rule includes provisions from existing §118.110, which is being repealed, and establishes that client records must not be disclosed unless certain factors are met.

The adopted rules add new Subchapter H, Fees.

The adopted rules repeal existing §118.70, Laser Hair Removal Devices--General and Operating Requirements. The provision in this repealed rule has been updated and supplemented under new §118.50.

The adopted rules add new §118.70, Fees. The adopted rules include provisions from existing §118.80, which is being repealed, and establish the fees for the licenses and certifications in this chapter.

The adopted rules repeal existing §118.71, Laser Hair Removal Devices--Stolen, Lost, or Missing. The provision in this repealed rule has been updated and supplemented under new §118.51.

The adopted rules add new Subchapter I, Enforcement.

The adopted rules repeal existing §118.80, Fees. The provision in this repealed rule has been updated and supplemented under new §118.70.

The adopted rules add new §118.80, Administrative Penalties and Sanctions. The adopted rules include provisions from existing §118.90, which is being repealed, and establish that violations of provisions of the Texas Occupations Code, Health and Safety Code, this chapter, or any other rule or order may result in penalties and/or sanctions.

The adopted rules add new §118.81, Enforcement Authority. The adopted rules include provisions from existing §118.91, which is being repealed, and establish the enforcement authority to enforce Texas Health and Safety Code Chapter 401, Subchapter M and this chapter.

The adopted rules repeal existing §118.90, Administrative Penalties and Sanctions. The provision in this repealed rule has been updated and supplemented under new §118.80.

The adopted rules repeal existing §118.91, Enforcement Authority. The provision in this repealed rule has been updated and supplemented under new §118.81.

The adopted rules repeal existing §118.100, Records Retention Requirements. The provision in this repealed rule has been updated and supplemented under new §118.60.

The adopted rules repeal existing §118.110, Disclosures and Confidentiality Requirements. The provision in this repealed rule has been updated and supplemented under new §118.61.

PUBLIC COMMENTS

The Department drafted and distributed the proposed rules to persons internal and external to the agency. The proposed rules were published in the May 30, 2025, issue of the *Texas Register* (50 TexReg 3171). The public comment period closed on June 30, 2025. The Department did not receive any comments from interested parties on the proposed rules.

COMMISSION ACTION

At its meeting on August 21, 2025, the Commission adopted the proposed rules with changes to §§118.4, 118.11, 118.13, 118.22, 118.25, 118.26, 118.40, 118.50 and 118.51, as published in the *Texas Register*. These changes are explained in the Section-by-Section Summary.

16 TAC §§118.1 - 118.3, 118.10, 118.20, 118.30 - 118.35, 118.40, 118.50, 118.60, 118.61, 118.70, 118.71, 118.80, 118.90, 118.91, 118.100, 118.110

STATUTORY AUTHORITY

The adopted repeals are repealed under Texas Occupations Code, Chapter 51, and Texas Health and Safety Code, Chapter 401, Subchapter M, which authorize the Commission, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the adopted repeals are those set forth in Texas Occupations Code, Chapter 51, and Texas Health and Safety Code, Chapter 401, Subchapter M.

No other statutes, articles, or codes are affected by the adopted repeals.

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

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Doug Jennings

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Texas Department of Licensing and Regulation

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



SUBCHAPTER A. GENERAL PROVISIONS

16 TAC §§118.1 - 118.4

STATUTORY AUTHORITY

The adopted rules are adopted under Texas Occupations Code, Chapter 51, and Texas Health and Safety Code, Chapter 401, Subchapter M, which authorize the Commission, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the adopted rules are those set forth in Texas Occupations Code, Chapter 51, and Texas Health and Safety Code, Chapter 401, Subchapter M. No other statutes, articles, or codes are affected by the adopted rules.

§118.4. Laser Hair Removal Procedure.

(a) A laser hair removal procedure is the removal of hair from one of the following four body areas, conducted during the same or separate appointment by one person:

- (1) head and neck;
- (2) upper extremities, to include hands, arms (including armpits), and shoulders;
- (3) torso, to include front and back (including pelvic region and buttocks); or
- (4) lower extremities, to include legs and feet.

(b) The following areas are considered one procedure, regardless of how many individual body parts are treated within that area:

- (1) forehead, glabella, cheeks, nose, upper lip, chin, sideburns, ears, front of neck, and back of neck;
- (2) hands, fingers, armpits, shoulders;
- (3) areolas, chest (man), abdomen, bikini or Brazilian, upper back lower back, buttocks, midline; and
- (4) knees, feet, toes.

(c) The following areas may be split into right and left sides and count as more than one single procedure if done simultaneously.

- (1) Upper arms;
- (2) Lower arms;
- (3) Upper legs; and

- (4) Lower legs.

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

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Doug Jennings

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Texas Department of Licensing and Regulation

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SUBCHAPTER B. LASER HAIR REMOVAL FACILITY

16 TAC §§118.10 - 118.14

STATUTORY AUTHORITY

The adopted rules are adopted under Texas Occupations Code, Chapter 51, and Texas Health and Safety Code, Chapter 401, Subchapter M, which authorize the Commission, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the adopted rules are those set forth in Texas Occupations Code, Chapter 51, and Texas Health and Safety Code, Chapter 401, Subchapter M. No other statutes, articles, or codes are affected by the adopted rules.

§118.11. LHR Facility--License Term; Renewal.

(a) An LHR facility license issued by the department is valid for two years.

(b) Each applicant for renewal of an LHR facility license must:

- (1) complete an application on department approved forms; and
- (2) submit the renewal fee(s) specified under §118.70.

(c) If an LHR facility does not submit an application for renewal of the LHR facility license, the LHR facility must on or before the expiration date of the LHR facility license:

- (1) end use of all LHR devices; and
- (2) submit to the department a record of the disposition of the LHR devices, and if transferred, to whom the devices were transferred, as specified in §118.12(f).

(d) Expiration of the LHR facility license does not relieve the LHR facility owner or operator of the requirements of this chapter.

§118.13. LHR Facility--Consulting Physician.

(a) A LHR facility must have a written contract with a consulting physician. The LHR facility's contract with its consulting physician must provide the following:

- (1) The consulting physician must be available for emergency consultation with the facility as appropriate to the circumstances, including, if the physician considers it necessary, an emergency appointment with the client. This responsibility may be met through

telemedicine in accordance with Texas Occupations Code, Chapter 111;

(2) If the consulting physician is unavailable for an emergency consultation, the alternate consulting physician must be available for the consultation with the facility relating to care for the client;

(3) The consulting physician and alternate consulting physician must have a non-residential primary practice site located within 75 miles of the LHR facility; and

(4) The consulting physician must be responsible for reviewing all adverse events, serious injuries, and for determining whether such events are reportable in accordance with applicable laws.

(b) The protocols required in accordance with §118.10 are:

(1) written instructions agreed upon and signed and dated by the consulting physician and the LHR facility operator;

(2) maintained at the LHR facility; and

(3) reviewed and signed by the consulting physician and LHR operator at least annually.

(c) The protocols required in accordance with §118.10, must include at least the following:

(1) the level of licensure which is required for each LHR procedure;

(2) the circumstances or conditions under which each procedure is to be performed;

(3) specific instructions to be followed for individual LHR certification who are working under direct supervision or who are giving direct supervision;

(4) conditions under which emergency consultation is required;

(5) designated settings, in accordance with the manufacturer's instructions, at which the LHR device can be expected to safely remove hair; and

(6) list of medications taken by the client that must be reported to the consulting physician before LHR services are provided or that, if taken by the client, preclude a LHR procedure from being performed.

(d) The requirements in this section do not relieve a consulting physician or another health care professional from complying with applicable regulations prescribed by a state or federal agency.

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

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SUBCHAPTER C. LASER HAIR REMOVAL INDIVIDUAL CERTIFICATION

16 TAC §§118.20 - 118.22, 118.25 - 118.29

STATUTORY AUTHORITY

The adopted rules are adopted under Texas Occupations Code, Chapter 51, and Texas Health and Safety Code, Chapter 401, Subchapter M, which authorize the Commission, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the adopted rules are those set forth in Texas Occupations Code, Chapter 51, and Texas Health and Safety Code, Chapter 401, Subchapter M.

No other statutes, articles, or codes are affected by the adopted rules.

§118.22. *Certification Term; Renewal.*

(a) An individual LHR certification issued by the department is valid for two years.

(b) Each applicant for renewal of an individual LHR certification must:

(1) complete an application on department approved forms; and

(2) submit the renewal fee(s) specified under §118.70.

(c) Each applicant for renewal of an individual LHR certification must also successfully pass a criminal history background check.

(d) Expiration of an individual LHR certification does not relieve the certificate holder of the requirements of this section.

(e) Renewals for LHR professionals must provide proof of current certification.

§118.25. *Continuing Education Requirements.*

(a) General Requirements. Each individual who holds an individual LHR certification issued by the department must obtain eight hours of continuing education (CE) hours per certification term to include the following LHR related topics:

(1) refresher training in the topics specified in §118.26;

(2) LHR technology updates;

(3) applicable regulatory changes; and

(4) other health and safety related topics.

(b) Web-Based Training. The continuing education hours required by this section may be obtained by web-based online training.

§118.26. *LHR Individual Certification--Apprentice-in-Training.*

(a) LHR Apprentice-In-Training Certification Requirements. An applicant for an LHR apprentice-in-training certification must:

(1) be at least 18 years of age.

(2) have at least 24 hours of training in:

(A) LHR device safety;

(B) laser physics;

(C) skin typing;

(D) skin reactions;

- (E) treatment protocols;
- (F) burns;
- (G) eye protection;
- (H) emergencies; and
- (I) post-treatment protocols.

(3) have an additional 16 hours of training in:

(A) cardio-pulmonary resuscitation (a valid cardio-pulmonary resuscitation certificate may be used to satisfy up to eight hours of the training required by this subparagraph);

(B) review of client's pre-existing conditions to determine if consultation with a consulting physician is needed for possible diagnosis or treatment;

(C) review of client's previous LHR procedures by another modality;

(D) review of client's current medications to determine if any medications need to be brought to the attention of the consulting physician based on established protocols;

(E) proper signage and posting;

(F) use of an LHR device; and

(G) anesthesia used in conjunction with LHR procedures.

(b) LHR Apprentice-In-Training Certification Submission Requirement. An applicant for an LHR apprentice-in-training certification must submit proof of successful completion of a training program approved by the department covering the topics listed in §118.26(a)(2). An individual must not perform LHR procedures unless under the direct supervision of a senior LHR technician or an LHR professional.

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

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SUBCHAPTER D. APPRENTICE TRAINING PROGRAMS

16 TAC §118.30

STATUTORY AUTHORITY

The adopted rules are adopted under Texas Occupations Code, Chapter 51, and Texas Health and Safety Code, Chapter 401, Subchapter M, which authorize the Commission, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the adopted rules are those set forth in Texas Occupations Code, Chapter 51, and Texas Health and Safety Code, Chapter 401, Subchapter M.

No other statutes, articles, or codes are affected by the adopted rules.

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SUBCHAPTER E. REQUIREMENTS FOR CERTIFYING ENTITIES AND EXAMINATIONS

16 TAC §118.40

STATUTORY AUTHORITY

The adopted rules are adopted under Texas Occupations Code, Chapter 51, and Texas Health and Safety Code, Chapter 401, Subchapter M, which authorize the Commission, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the adopted rules are those set forth in Texas Occupations Code, Chapter 51, and Texas Health and Safety Code, Chapter 401, Subchapter M.

No other statutes, articles, or codes are affected by the adopted rules.

§118.40. Requirements for Certifying Entities and Examinations.

(a) A certifying entity must meet the following requirements:

(1) apply on a department approved application for approval and follow all education requirements set out in this chapter;

(2) be a non-governmental organization such as a society, association, business, or school with an interest in the field of laser hair removal or whose members participate in or have an interest in the field of laser hair removal;

(3) if a society or association, not restrict its membership due to race, color, religion, age, national origin or disability and also make its memberships available to the general public nationwide;

(4) if a society or association, have a certification program open to nonmembers as well as members;

(5) be an incorporated nationally recognized entity in good standing involved in setting national standards of practice within its fields of expertise;

(6) have an adequate staff, a viable system for financing its operations, and a policy- and decision- making review board;

(7) have a set of written organizational by-laws and policies that provide adequate assurance of lack of conflict of interest and include a system for monitoring and enforcing these by-laws and policies;

(8) have a committee whose members carry out their responsibilities impartially to review and approve their certification guidelines and procedures and advise the organization's staff in implementing the certification program;

(9) have a committee whose members carry out their responsibilities to impartially review complaints against certified individuals and then determine appropriate sanctions;

(10) have written procedures describing all aspects of its certification program including its administration, and maintain records of the current status of an individual's certification;

(11) have procedures to ensure certified individuals are provided due process with respect to the administration of a certification program, including the certification process and the imposition of any sanctions against certified individuals;

(12) have procedures for proctoring examinations, including qualifications for proctors. These procedures must ensure that the individuals proctoring each examination are not employed by the same company or corporation (or a wholly-owned subsidiary of such company or corporation) as any of the examinees;

(13) exchange information about certified individuals with the agency and other certifying entities and allow periodic review of its certification program and related records by the agency; and

(14) provide a description to the agency of its procedures for choosing examination sites and for providing an appropriate examination environment.

(b) To be approved by the department, a certification program must meet the following requirements:

(1) require applicants for certification to:

(A) receive training in the topics specified in §118.26(a); and

(B) satisfactorily complete a written examination covering these topics;

(2) require applicants for certification to provide documentation that demonstrates that the applicant has:

(A) received training in the topics specified in §118.26(a); and

(B) satisfactorily completed a minimum period of LHR apprentice-in-training certification requirements;

(3) include procedures to ensure that all examination questions are protected from disclosure, as prescribed by 16 Texas Administrative Code §60.54;

(4) include procedures for denying an application and revoking, suspending, and reinstating a certificate;

(5) include procedures for notifying each applicant of current guidelines to determine eligibility in the educational program, as prescribed by Texas Occupations Code §53.152;

(6) provide a certification period of at least three years, but not more than five years;

(7) include procedures for renewing certifications and, if the procedures allow renewals without examination, require evidence

of recent full-time employment and continuing education hours as required by this chapter;

(8) provide a timely response to inquiries from members of the public about an individual's certification status; and

(9) issue a certificate of completion that includes:

(A) the issue date;

(B) the expiration date; and

(C) a statement that the certification program was completed in accordance with Texas Health and Safety Code, Chapter 401, Subchapter M, and the rules under 16 Texas Administrative Code, Chapter 118.

(c) An examination administered or used by a certifying entity must be designed to test an individual's knowledge and understanding of at least the topics specified in §118.26(a).

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SUBCHAPTER F. LASER HAIR REMOVAL DEVICES

16 TAC §118.50, §118.51

STATUTORY AUTHORITY

The adopted rules are adopted under Texas Occupations Code, Chapter 51, and Texas Health and Safety Code, Chapter 401, Subchapter M, which authorize the Commission, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the adopted rules are those set forth in Texas Occupations Code, Chapter 51, and Texas Health and Safety Code, Chapter 401, Subchapter M.

No other statutes, articles, or codes are affected by the adopted rules.

§118.50. LHR Devices--General and Operating Requirements.

(a) An LHR device used in an LHR facility must follow all applicable federal and state laws and regulations.

(b) An LHR device used by an LHR facility must be purchased either by a physician (such as the consulting physician or alternate consulting physician) or by an LHR facility pursuant to a written prescription or other order of a licensed physician in Texas.

(c) A prescription or other order from a licensed physician for the purchase of an LHR device must include at a minimum:

(1) the date the physician issued the order;

(2) the name and quantity of the LHR device(s) authorized to be purchased;

(3) the name, address, and telephone number of the registered LHR facility authorized to purchase and own the laser;

(4) the intended use of the device is limited to nonablative laser hair removal;

(5) the name, address, and telephone number of the physician at the physician's usual place of business, legibly printed or stamped;

(6) a statement that the prescription is valid up to 12 months from the date of issue; and

(7) the signature of the authorizing physician.

(d) An LHR device must not be used for LHR procedures unless:

(1) the LHR device is approved for laser hair removal or reduction by the FDA for that purpose; and

(2) the LHR device is operated only at the settings expected to safely remove hair, in accordance with the manufacturer's instructions and protocols established by the consulting physician in accordance with this chapter and other applicable law regulating devices.

(e) Individuals operating each laser presently being used or listed on the current inventory, must be provided with written instructions for safe use, including clear warnings and precautions to be taken when using the LHR device.

(f) Each individual receiving the instructions must document that they have read and understand the instructions. The instructions and the documentation that each individual has read and understands the instructions must be maintained in accordance with §118.60.

(g) A controlled area must be established within a room in which LHR devices are used and the LHR devices must be secure from unauthorized removal.

(h) Each LHR device must incorporate a key-actuated or computer-actuated master control. The key must be removable and the LHR device must not be operable when the key is removed. When the LHR device is not being prepared for operation or is unattended, the controlled area must be secured to prevent unauthorized access.

(i) Protective eyewear must be worn by all individuals using an LHR device and all individuals present, including clients, in the room where an LHR device is being used. Protective eyewear devices must meet the following requirements:

(1) provide a comfortable and appropriate fit all around the area of the eye;

(2) be in proper condition to ensure the optical filter(s) and frame provide the required optical density or greater at the desired wavelengths, and retain all protective properties during its use;

(3) be suitable for the specific wavelength of the laser and be of optical density adequate for the energy involved;

(4) have the optical density or densities and associated wavelength(s) permanently labeled on the filters or eyewear; and

(5) be examined, at intervals not to exceed 12 months, to ensure the reliability of the protective filters and integrity of the protective filter frames. Unreliable eyewear must be discarded. Documentation of the examination must be made and maintained in accordance with §118.60.

(j) Each client must be provided with a written statement outlining the relevant risks associated with LHR procedures, including a warning that failure to use the eye protection provided to the client by the LHR facility may result in damage to the eyes.

(k) Compliance with the written statement requirement specified in subsection (j), does not affect the liability of the LHR facility operator or a manufacturer of a LHR device.

(l) Each LHR facility licensed by the department to offer LHR procedures using LHR devices in accordance with this chapter must confine use and possession of the LHR devices to the location and purpose authorized in the LHR facility application. If an LHR facility operator owns multiple LHR facilities, the operator may transfer an LHR device from facility to facility that the operator owns if each facility is licensed.

(m) An individual must not operate an LHR device with the intent to treat an illness, disease, injury, or physical defect or deformity unless the individual is:

(1) a physician;

(2) acting under a physician's order; or

(3) authorized under other law to treat the illness, disease, injury, or physical defect or deformity in that manner.

(n) A person who violates subsection (m), is practicing medicine in violation of Occupations Code, Title 3, Subtitle B, and is subject to the penalties under that subtitle and under Health and Safety Code §401.522.

(o) An LHR facility must not be used for living or sleeping purposes, or any other purpose that would tend to make the premises unsanitary, unsafe, or endanger the health and safety of the public. A facility that is attached to a residence must have an entrance that is separate and distinct from the residential entrance. Any door between a residence and a licensed facility must be closed during business hours.

§118.51. LHR Devices--Stolen, Lost, or Missing.

(a) Each LHR facility licensed by the department must report to the Department of State Health Services - Radiation Control Program a stolen, lost, or missing LHR device within 24 hours after its occurrence becomes known to the person.

(b) Each person or facility required to make a report must, within 30 days after making the initial report, make a written report to the Department of State Health Services - Radiation Control Program that includes the following information:

(1) a description of the LHR device involved, including the manufacturer, model, serial number, and class;

(2) a description of the circumstances under which the loss or theft occurred;

(3) a statement of disposition, or probable disposition, of the LHR device involved;

(4) actions that has been taken, or will be taken, to recover the LHR device; and

(5) procedures or measures that has been taken to prevent the loss or theft of LHR devices in the future.

(c) After filing the written report, the person must also report additional substantive information on the loss or theft within 30 days after the person learns of such information.

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Doug Jennings

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SUBCHAPTER G. RECORDS REQUIREMENTS

16 TAC §118.60, §118.61

STATUTORY AUTHORITY

The adopted rules are adopted under Texas Occupations Code, Chapter 51, and Texas Health and Safety Code, Chapter 401, Subchapter M, which authorize the Commission, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the adopted rules are those set forth in Texas Occupations Code, Chapter 51, and Texas Health and Safety Code, Chapter 401, Subchapter M. No other statutes, articles, or codes are affected by the adopted rules.

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SUBCHAPTER H. FEES

16 TAC §118.70

STATUTORY AUTHORITY

The adopted rules are adopted under Texas Occupations Code, Chapter 51, and Texas Health and Safety Code, Chapter 401, Subchapter M, which authorize the Commission, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the adopted rules are those set forth in Texas Occupations Code, Chapter 51, and Texas Health and Safety Code, Chapter 401, Subchapter M. No other statutes, articles, or codes are affected by the adopted rules.

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SUBCHAPTER I. ENFORCEMENT

16 TAC §118.80, §118.81

STATUTORY AUTHORITY

The adopted rules are adopted under Texas Occupations Code, Chapter 51, and Texas Health and Safety Code, Chapter 401, Subchapter M, which authorize the Commission, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the adopted rules are those set forth in Texas Occupations Code, Chapter 51, and Texas Health and Safety Code, Chapter 401, Subchapter M. No other statutes, articles, or codes are affected by the adopted rules.

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TITLE 19. EDUCATION

PART 2. TEXAS EDUCATION AGENCY

CHAPTER 53. REGIONAL EDUCATION SERVICE CENTERS

SUBCHAPTER AA. COMMISSIONER'S RULES

19 TAC §53.1002, §53.1021

The Texas Education Agency (TEA) adopts amendments to §53.1002 and §53.1021, concerning regional education service centers (RESCs). The amendments are adopted without

changes to the proposed text as published in the July 11, 2025 issue of the *Texas Register* (50 TexReg 3984) and will not be republished. The amendments clarify existing rules, reflect current RESC practices, allow electronic application submissions, and replace the Performance Standards and Indicators Manual with a reference to online metrics.

REASONED JUSTIFICATION: Section 53.1002 allows the commissioner of education to appoint a non-voting charter school representative to the board of an RESC if at least one open-enrollment charter school operates in the region and outlines the eligibility, application, and appointment process for that role.

The adopted amendment to §53.1002 clarifies the term limits for charter members serving on RESC boards to ensure consistent understanding and implementation of the rule. Additionally, the amendment permits applicants to submit their applications electronically to the commissioner, which will reduce the administrative burden and result in time and cost savings for both applicants and RESCs. A cross reference was also updated to reflect a reorganization of charter school rules in 19 TAC Chapter 100.

Section 53.1021 authorizes the commissioner to establish and communicate performance standards and indicators for evaluating RESCs and their executive directors, as outlined in the manual formerly adopted as Figure: 19 TAC §53.1021(b).

The adopted amendment removes the figure containing the outdated Performance Standards and Indicators Manual. This manual has been replaced by a new version that reflects more relevant and accurate metrics. The new manual will be published on the TEA website rather than included as a figure in the rule, allowing for easier updates and improved accessibility. Section 53.1021(c), which references the outdated manual, has been removed.

SUMMARY OF COMMENTS AND AGENCY RESPONSES: The public comment period on the proposal begins July 11, 2025, and ends August 11, 2025. No public comments were received.

STATUTORY AUTHORITY. The amendments are adopted under Texas Education Code (TEC), §8.001, which provides the commissioner of education with authority to decide any matter concerning the operation or administration of regional education service centers (RESCs); TEC, §8.003, which provides the commissioner of education with rulemaking authority regarding the local selection, appointment, and continuity of membership of RESC boards of directors; TEC, §8.101, which provides that the commissioner of education shall establish performance standards and indicators for evaluating RESCs; and TEC, §12.104, which provides that the commissioner of education with rulemaking authority to provide for the representation of open-enrollment charter schools in RESCs.

CROSS REFERENCE TO STATUTE. The amendments implement Texas Education Code, §§8.001, 8.003, 8.101, and 12.104.

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

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



CHAPTER 100. CHARTERS

SUBCHAPTER AA. COMMISSIONER'S RULES CONCERNING OPEN-ENROLLMENT CHARTER SCHOOLS

DIVISION 3. COMMISSIONER ACTION, PERFORMANCE MONITORING, AND INTERVENTION

19 TAC §§100.1033, 100.1035, 100.1037, 100.1039

The Texas Education Agency (TEA) adopts new §100.1033 and amendments to §§100.1035, 100.1037, and 100.1039, concerning commissioner action, performance monitoring, and intervention for open-enrollment charter schools. New §100.1033 and the amendments to §100.1037 and §100.1039 are adopted without changes to the proposed text as published in the March 21, 2025 issue of the *Texas Register* (50 TexReg 2019) and will not be republished. The amendment to §100.1035 is adopted with changes to the proposed text as published in the March 21, 2025 issue of the *Texas Register* (50 TexReg 2019) and will be republished. The adopted revisions establish performance frameworks for charter schools established under Texas Education Code (TEC), Chapter 12, Subchapter G, including adult charter schools and adult charter schools in correctional facilities, by defining evaluation criteria in the new Adult Charter School Performance Framework (ACSPF) Manual. The manual ties charter amendments, renewals, and expansions to these performance standards, including enrollment caps and discretionary renewal. The adopted revisions also update existing rules regarding expansion and renewal to reference the new performance frameworks.

REASONED JUSTIFICATION: The revisions add new §100.1033 to specify performance frameworks for Subchapter G charter schools and amend §§100.1035, 100.1037, and 100.1039 to include information relevant to Subchapter G charter schools.

New §100.1033(a) establishes performance frameworks for adult charter schools, including adult charter schools in correctional facilities. It provides the foundation for creating the ACSPF Manual, detailing the timeframe for updates, performance domains, criteria for assigning performance levels, and indicators used to evaluate academic, operational, and governance performance.

New §100.1033(b) details the measures the ACSPF Manual includes for Subchapter G charter schools. It also encompasses performance domains that evaluate academic growth, career readiness, one-year post-graduation outcomes, longitudinal postsecondary results, longitudinal wage and career growth, and operational performance.

New §100.1033(c) outlines the performance levels for charter schools in the ACSPF report according to the criteria defined in

the ACSPPF Manual. These criteria include academic, financial, operational, and governance indicators.

The proposed amendment to §100.1035(b)(3) adds language to include Subchapter G charter schools, incorporating their performance under §100.1033 into the evaluation criteria for charter amendment requests.

The adopted amendment to §100.1035(c)(1)(B) inserts language that establishes a deadline for when expansion requests must be submitted for Subchapter G charter schools.

Based on public comment, §100.1035(c)(5)(C)(vi) has been amended at adoption to reference the ACSPPF and §100.1033 to provide clarification on the use of the ACSPPF tier rating for discretionary expansion.

The adopted amendment to §100.1035(c)(5)(A)(i) adds language that grants the commissioner authority to approve expansion amendment requests related to increasing maximum allowable enrollment, with a specific limitation that Subchapter G charter schools cannot exceed an enrollment cap of 2,000 students.

The adopted amendment to §100.1037(d)(2)(A) inserts language that requires the commissioner to consider the results of a Subchapter G charter school's annual evaluation under the ACSPPF Manual when evaluating a petition for discretionary renewal.

The adopted amendment to §100.1037 adds new subsection (f) to specify the criteria, requirements, or special conditions Subchapter G charter schools must meet to qualify for renewal.

New §100.1037(f)(1) is added to clarify the process for discretionary renewal. This change allows adult high school charters to submit petitions for discretionary renewal, which must be evaluated through the discretionary renewal process. Under this new paragraph, these schools are not eligible to apply for expedited renewal.

New §100.1037(f)(2) is added to establish the criteria for discretionary renewal. It clarifies the standard by which the commissioner will evaluate petitions for discretionary renewal. The overall evaluation process is based on the academic performance criteria outlined in the ACSPPF Manual.

New §100.1037(f)(3) clarifies the commissioner's authority to revoke a Subchapter G charter school's charter if the charter school's adult education program fails to meet the minimum performance standards established in the ACSPPF for three consecutive school years after the second year of operation.

The proposed amendment to §100.1039(3)(F) inserts language specifying that Subchapter G charter schools must meet the performance measures outlined in the ACSPPF or risk revocation of their charter.

SUMMARY OF COMMENTS AND AGENCY RESPONSES: The public comment period on the proposal began March 21, 2025, and ended April 21, 2025. Following is a summary of public comments received and agency responses.

Comment: The Schulman, Lopez, Hoffer & Adelstein law firm commented in support of the creation of the ACSPPF Manual, emphasizing its importance for guiding adult charter schools, including those in correctional facilities. They urged TEA to include input from experienced stakeholders, specifically leaders from Goodwill Excel Center, New Heights, and Texas Works, in the manual's development. The commenters also expressed con-

cern about two proposed performance metrics: longitudinal postsecondary results and wage/career growth. They recommended that, since there are currently no systems to collect this data effectively, these metrics be exempted from accountability ratings until reliable methods and infrastructure are established.

Response: The agency disagrees with exempting the longitudinal postsecondary results and wage/career growth from the ACSPPF Manual. TEA is required by TEC, §12.262, to include the metrics for longitudinal postsecondary results and wage/career growth and will work with Subchapter G adult high school charter school program schools to collect this data.

Comment: The Schulman, Lopez, Hoffer & Adelstein law firm commented in opposition to the proposed cap of 2,000 students for Subchapter G adult charter schools, as outlined in §100.1035(c)(5)(A)(i). They stated that this cap is unnecessary, especially since traditional Subchapter D charter schools have no such limit, and that it would hinder the ability of proven operators to meet the educational needs of Texas's large adult population without high school diplomas. The commenters recommend increasing the cap to 3,500 students per operator and suggested allowing waivers for high-performing schools (Tier 1 or Tier 2 under §100.1033(c)) to exceed the cap.

Response: The agency disagrees with increasing the enrollment limit of 2,000 students to 3,500 students. TEA set this threshold after conversations with stakeholders and will evaluate whether or not to raise it based on the performance of adult charter schools over a period of time.

Comment: The Schulman, Lopez, Hoffer & Adelstein law firm objected to proposed new §100.1037(f)(1), which would prevent Subchapter G adult charter schools from applying for expedited renewal, a process available to other open-enrollment charter schools. They recommend creating criteria that would allow high-performing adult charter schools to qualify for expedited renewal consideration, promoting fairness and recognizing school quality.

Response: The agency disagrees with the recommendation that adult charter schools be allowed to qualify for expedited renewal. TEA will evaluate whether or not to establish expedited renewal based on the performance of adult charter schools over a period of time.

Comment: The Goodwill Excel Center for Adults requested that TEA formally include stakeholder input, including the Adult High School Advisory Committee established under TEC, §12.254, in the initial development of and subsequent annual updates to the ACSPPF Manual.

Response: The agency agrees that TEA should formally include stakeholder input, including the Adult High School Advisory Committee established under TEC, §12.254, in subsequent annual updates. TEA has already developed the initial framework with the Adult High School Advisory Committee.

Comment: The Goodwill Excel Center for Adults commented on §100.1033(b), requesting TEA and the Adult High School Advisory Committee closely consider the feasibility and appropriate weight of longitudinal wage and career advancement measures. The commenter stated that while these are critical indicators of success for adult learners, data collection is complex. The commenter believes TEA can coordinate with relevant state agencies to access employment data that can support more accurate and consistent measurement in this area.

Response: The agency agrees that longitudinal wage and career advancement measures are critical indicators and that data collection is complex. TEA will work with appropriate entities as necessary to collect the most accurate and reliable information.

Comment: The Goodwill Excel Center for Adults recommended amending §100.1035(c)(4)(A)(iii) to incorporate performance frameworks specific to Subchapter G charter schools when considering eligibility for expedited expansion.

Response: The agency disagrees with amending §100.1035(c)(4)(A)(iii) to include a reference to Subchapter G schools as this section is about the expedited expansion of Subchapter D open-enrollment charter schools. TEA has revised §100.1035(c)(5)(C)(vi) at adoption to provide clarification of the use of the ACSPP tier rating for discretionary expansion.

Comment: The Goodwill Excel Center for Adults commented on §100.1035(c)(5)(A)(i), proposing a waiver process for the 2,000-student enrollment cap for adult high schools that meet Tier 1 or 2 performance standards.

Response: The agency disagrees with providing a waiver process for the enrollment cap of 2,000 students. TEA set this threshold after conversation with stakeholders and will evaluate whether or not to raise it based on the performance of adult charter schools over a period of time. A Subchapter G charter school already has the ability to request a waiver of the rule through TEA's waiver process.

Comment: The Goodwill Excel Center for Adults commented on §100.1035(c)(6)(A)(iii), requesting that Subchapter G charter schools not be inadvertently excluded from funding opportunities, such as Charter School Program (CSP), due to differences in accountability metrics. For context, the commenter noted that one of their campuses was identified in 2024 for Comprehensive Support and Improvement (CSI) due to a low graduation rate, which they explained was a challenge due to the realities of serving adult learners who require flexibility to earn their diplomas. The commenter also stated that adult high schools do not operate on a traditional 4-year cohort model, making direct comparisons to standard graduation metrics misaligned and misleading. They urged TEA to provide technical assistance, develop differentiated accountability, and advocate for fair inclusion of Subchapter G adult high schools in funding opportunities.

Response: The agency provides the following clarification. The CSP grant requirements established in rule are based on an approved application for funding with the U.S. Department of Education (ED). TEA has sought clarification from ED regarding the ability to include these types of charter schools in its grant program and will evaluate whether or not to include Subchapter G charter schools in its next application to ED for CSP grant funds.

Comment: The Goodwill Excel Center for Adults recommended that criteria be established in §100.1037 that allow high-quality adult high schools to qualify for expedited charter renewal.

Response: The agency disagrees with the recommendation that adult charter schools be allowed to qualify for expedited renewal. TEA will evaluate whether or not to establish expedited renewal based on the performance of adult charter schools over a period of time.

STATUTORY AUTHORITY. The new section and amendments are adopted under Texas Education Code (TEC), §12.262, which requires the commissioner, working alongside the advisory committee established under TEC, §12.254, to develop and adopt an

accountability framework. This framework must establish standards to evaluate the performance of adult education programs operating under charters granted under TEC, Chapter 12, Subchapter G; and TEC, §12.265, which requires the commissioner to adopt rules necessary to administer the program under TEC, Chapter 12, Subchapter G, including rules to implement and administer TEC, §12.262, and allows the commissioner to establish maximum number of students who may be enrolled in an adult education program under TEC, Subchapter G.

CROSS REFERENCE TO STATUTE. The new section and amendments implement Texas Education Code, §12.262 and §12.265.

§100.1035. Charter Amendment.

(a) Subject to the requirements of this section, the terms of an open-enrollment charter may be revised with the consent of the charter holder by expansion or non-expansion amendment as approved by the commissioner of education.

(b) Information relevant to all amendment requests.

(1) Filing of amendment request. Prior to implementation, the charter holder shall file a request, in the form prescribed, with the Texas Education Agency (TEA) division responsible for charter schools.

(2) Board resolution. The request must be attached to a written resolution adopted by the governing body of the charter holder and signed by a majority of the members indicating approval of the requested amendment.

(3) Relevant information considered. As directed by the commissioner, a charter holder requesting an amendment shall submit current information required by the prescribed amendment form, as well as any other information requested by the commissioner. In considering the amendment request, the commissioner may consider any relevant information concerning the charter holder, including its performance on the Charter School Performance Frameworks (CSPF) adopted by rule in §100.1031 of this title (relating to Performance Frameworks for Subchapters D and E Charter Schools) and §100.1033 of this title (relating to Performance Frameworks for Subchapter G Charter Schools); student and other performance; compliance, staff, financial, and organizational data; and other information.

(4) Best interest of students. The commissioner may approve an amendment only if the charter holder meets all applicable requirements, and only if the commissioner determines that the amendment is in the best interest of students. The commissioner may consider the performance of all charters operated by the same charter holder in the decision to finally grant or deny an amendment.

(5) Conditional approval. The commissioner may grant the amendment without condition or may require compliance with such conditions and/or requirements as may be in the best interest of students.

(6) Required forms and formats. The TEA division responsible for charter schools may develop and promulgate, from time to time, forms or formats for requesting charter amendments under this section. If a form or format is promulgated for a particular type of amendment, it must be used to request an amendment of that type.

(7) Ineligibility. The commissioner will not consider any amendment that is submitted by a charter holder that has been notified by the commissioner of the commissioner's intent to allow the expiration of the charter or intent to revoke the charter. This subsection does not limit the commissioner's authority to accept the surrender of a charter.

(c) Expansion amendments.

(1) Timeline for submission. A charter holder may submit a request for approval for an expansion amendment:

(A) up to 36 months before the date on which the expansion will be effective; and

(B) no later than the first day of March before the school year for which the expansion will be effective or no later than June 30 of each year for which the expansion will be effective for Subchapter G charter schools.

(2) Notification.

(A) Upon receipt of an expansion amendment request by a charter holder, the TEA division responsible for charter schools will notify the following:

(i) the superintendent and the board of trustees of each school district from which the proposed open-enrollment charter school or campus is likely to draw students, as defined in §100.1013 of this title (relating to Notification of Charter Application); and

(ii) each member of the legislature that represents the geographic area to be served by the proposed school or campus, as defined in §100.1013 of this title.

(B) To be considered a school district for purposes related to land development standards, licensing, zoning, and various purposes and services, a charter school must meet the notification requirements as outlined in §100.1209 of this title (relating to Municipal Ordinances).

(C) Should a change in the location of a campus be approved after notification but prior to opening, the commissioner of education or the commissioner's designee is required to notify as required by subparagraph (A) of this paragraph based on the zip code of the new location.

(3) Expansion types. A charter holder of an open-enrollment charter may submit, as described by this section, a request for approval for either:

(A) expedited expansion; or

(B) discretionary expansion.

(4) Expedited expansion amendments. An expedited expansion amendment allows for the establishment of a new charter campus under Texas Education Code (TEC), §12.101(b-4).

(A) In order to submit an expedited expansion amendment, the charter school must meet the following requirements:

(i) an accreditation status of Accredited;

(ii) currently has at least 50% of its student population in grades assessed under TEC, Chapter 39, Subchapter B, or has had at least 50% of the students in the grades assessed enrolled in the school for at least three years;

(iii) is currently evaluated under the standard accountability procedures for evaluation under TEC, Chapter 39, and received a district rating in the highest or second highest performance rating category under TEC, Chapter 39, Subchapter C, for three of the last five ratings;

(iv) at least 75% of the campuses rated under the charter school also received a rating in the highest or second highest performance rating category in the most recent ratings; and

(v) no campus received a rating in the lowest performance rating category in the most recent ratings.

(B) Unless the commissioner provides written notice that the charter holder does not meet the requirements outlined in TEC, §12.101(b-4), within 60 days of the date the charter holder submits a completed expedited expansion amendment, the amendment is considered enacted. If the commissioner denies the amendment, the commissioner must identify the legal and factual basis for denial, including the specific criteria under TEC, §12.101(b-4), that was not met.

(5) Discretionary expansion amendments. A discretionary expansion amendment permits commissioner-approved changes to the terms of an open-enrollment charter school related to expansion.

(A) Discretionary expansion amendment types. There are three types of discretionary amendments.

(i) Maximum enrollment. The commissioner may approve an expansion amendment request seeking to increase maximum allowable enrollment. For Subchapter G charter schools, the maximum enrollment may not exceed more than 2,000 students.

(ii) Grade span. The commissioner may approve an expansion amendment request seeking to extend the grade levels it serves only if it is accompanied by appropriate educational plans for the additional grade levels in accordance with Chapter 74, Subchapter A, of this title (relating to Required Curriculum), and such plan has been reviewed and approved by the charter governing board.

(iii) Adding a campus or site. The commissioner may approve an expansion amendment request seeking to add a new campus or site under a campus only if it meets the following criteria:

(I) the charter holder has operated at least one charter school campus in Texas for a minimum of three consecutive years; and

(II) a new site under an existing campus will be located within 25 miles of the campus with which it is associated.

(B) Board certification. Before voting to request a discretionary expansion amendment, the charter holder governing board must certify that they have considered a business plan and has determined by majority vote of the board that the growth proposed is financially prudent relative to the financial and operational strength of the charter school and includes such a statement in the board resolution. The commissioner may request submission of the business plan, which must be comprised of the following components:

(i) a statement discussing the need for the expansion;

(ii) a statement discussing the current and projected financial condition of the charter holder and charter school;

(iii) an unaudited statement of financial position for the current fiscal year;

(iv) an unaudited statement of financial activities for the current fiscal year;

(v) an unaudited statement of cash flows for the current fiscal year;

(vi) a pro forma budget that includes the costs of operating the charter school, including the implementation of the expansion amendment;

(vii) a statement or schedule that identifies the assumptions used to calculate the charter school's estimated Foundation School Program revenues;

(viii) a statement discussing the use of debt instruments to finance part or all of the charter school's incremental costs;

(ix) a statement discussing the incremental cost of acquiring additional facilities, furniture, and equipment to accommodate the anticipated increase in student enrollment;

(x) a statement discussing the incremental cost of additional on-site personnel and identifying the additional number of full-time equivalents that will be employed;

(xi) the required statement that the growth proposed is financially prudent relative to the financial and operational strength of the charter school;

(xii) there are no instances of nepotism, conflicts of interest, or revelations in criminal history checks that deemed any board member or employee ineligible to serve as reported in the Governance Reporting Forms submitted to TEA for the previous three years; and

(xiii) the charter holder meets all other requirements applicable to expansion amendment requests and other amendments.

(C) Requirements. The commissioner may approve a discretionary expansion amendment only if:

(i) the expansion will be effective no earlier than the start of the fourth full school year at the affected charter school. This restriction does not apply if the affected charter school has a district rating of an A, B, or C and is operated by a charter holder that operates multiple charter campuses and all of that charter holder's most recent campus ratings of an A, B, or C;

(ii) the charter school has an accreditation status of Accredited;

(iii) the most recent district rating for the charter school is an A, B, or C;

(iv) the most recent district financial accountability rating for the charter school in the Financial Integrity Rating System of Texas for charter schools is "satisfactory" as defined by §100.1001(9) of this title (relating to Definitions);

(v) a charter holder that operates multiple charter campuses meets the criteria in subclause (I) or (II) of this clause. When calculating the percentages described, campuses that receive a 'Not Rated' rating shall not be included in the calculation.

(I) At least 90% of the campuses that receive an accountability rating are rated as an A, B, or C.

(II) If 75-89% of campuses that receive an accountability rating under the charter school are rated as an A, B, or C, the charter holder must provide additional information with the expansion request; and

(vi) the most recent designation for the charter school under the CSPF or Adult Charter School Performance Framework is "Tier 1" or "Tier 2" as defined by §100.1031 or §100.1033 of this title.

(D) Discretionary expansion amendment determination timeline. Notice of the commissioner's decision regarding a discretionary expansion amendment will be made within 60 calendar days of the date the charter holder submits a completed amendment request. The notice of the commissioner's determination may be sent electronically.

(6) High-quality campus designation. A high-quality campus designation is a separate designation and must be requested prior to the opening of a new campus associated with an approved expansion amendment. Charter holders of charter schools that receive high-quality campus designation from the commissioner will be eligible to par-

ticipate in the charter school program competitive grant process when federal funding for the Texas charter school program is available.

(A) The commissioner may approve a high-quality campus designation for a charter only if:

(i) the charter holder meets all requirements applicable to an expansion amendment set forth in this section and has operated at least one charter school campus in Texas for a minimum of five consecutive years;

(ii) the charter school has been evaluated under the accountability rating system established in §97.1001 of this title (relating to Accountability Rating System), has an accreditation status of Accredited, is currently evaluated under the standard accountability procedures, currently has an "A" or "B" rating at the local education agency level, and has an "A" or "B" rating in the previous two years in which ratings were issued with each campus that received a rating and operated under the charter also receiving an "A" or "B" rating as defined by §100.1001(8) of this title in the most recent state accountability ratings;

(iii) no charter campus has been identified for federal interventions in the most current report;

(iv) the charter school is not under any sanction imposed by TEA authorized under TEC, Chapter 39; Chapter 97, Subchapter EE, of this title (relating to Accreditation Status, Standards, and Sanctions); or federal requirements;

(v) is rated "Tier 1" in the most recent CSPF and meets the requirements of federal law and TEC, §12.111(a)(3) and (4);

(vi) the charter holder completes an application approved by the commissioner;

(vii) the amendment complies with all requirements of this paragraph; and

(viii) the commissioner determines that the designation is in the best interest of students.

(B) In addition to the requirements of subparagraph (A) of this paragraph, the commissioner may approve a high-quality campus designation only if the campus with the proposed designation:

(i) satisfies each element of the definition of a public charter school as set forth in federal law, including:

(I) admits students on the basis of a lottery, consistent with Elementary and Secondary Education Act, §4303(c)(3)(A), if more students apply for admission than can be accommodated; or

(II) in the case of a school that has an affiliated charter school (such as a school that is part of the same network of schools), automatically enrolls students who are enrolled in the immediate prior grade level of the affiliated charter school and, for any additional student openings or student openings created through regular attrition in student enrollment in the affiliated charter school and the enrolling school, admits students on the basis of a lottery as described in subclause (I) of this clause;

(ii) is separate and distinct from the existing charter school campus(es) established under the open-enrollment charter school with a separate facility and county-district-campus number; and

(iii) holds a valid charter contract issued by TEA.

(C) In making the findings required by subparagraph (B)(i) and (iii) of this paragraph, the commissioner shall consider:

(i) the terms of the open-enrollment charter school as a whole, as modified by the high-quality campus designation; and

(ii) whether the campus with the proposed designation shall be established and recognized as a separate school under Texas law.

(D) Failure to meet any standard or requirement for high-quality campus designation or agreed to in a performance agreement shall mean the immediate termination of any federal charter school program grant and/or any waiver exempting a charter from some of the expansion amendment requirements that may have been granted to a charter holder as a result of the high-quality campus designation.

(E) Notice of the commissioner's decision regarding a high-quality campus designation will be made within 60 calendar days of the date the charter holder submits a completed request. The notice of the commissioner's determination may be sent electronically.

(d) Non-expansion amendment. A non-expansion amendment permits changes to the terms of an open-enrollment charter school not related to expansion.

(1) Timeline for submission. All non-expansion amendments may be filed with the commissioner at any time throughout the year.

(2) Non-expansion amendment types. A non-expansion amendment is either material or non-material.

(A) Material non-expansion amendments include changes to the terms of an open-enrollment charter, including the following: relocation of a campus, campus or charter dormancy, closing or returning an active campus or site, charter holder governance, articles of incorporation, corporate bylaws, management company, admission and enrollment policy, shared services cooperatives or shared services agreements, and curriculum programs not already approved by TEA.

(i) Relocation amendment. A material non-expansion amendment to relocate solely permits a charter holder to relocate an existing campus or site to an alternate address while serving the same students and grade levels without a significant disruption to the delivery of the educational services. The alternate address of the relocation shall not be in excess of 25 miles from the existing campus address.

(ii) Material charter language change. Any material non-expansion amendment that requires changes to charter language shall set forth the text and page references in electronic format of the current open-enrollment charter language to be changed, and the text proposed as the new open-enrollment charter language.

(B) Non-material non-expansion amendments include changes to the terms of an open-enrollment charter, including the following: charter holder name, charter school (district) name, charter campus name, grade levels served on a campus, campus start date change, closing or returning a dormant campus or site, and fiscal year change.

(C) Any non-expansion amendment not identified in subparagraph (A) or (B) of this paragraph is subject to commissioner determination as material or non-material.

(D) The following timelines apply to non-expansion amendment requests.

(i) Charter holders that submit material non-expansion requests will receive notice of the commissioner's decision within 60 calendar days of a completed amendment request.

(ii) Charter holders that submit non-material non-expansion requests may proceed with the request 30 calendar days af-

ter the date the charter holder submits a completed amendment request unless otherwise notified by the commissioner.

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

Filed with the Office of the Secretary of State on September 8, 2025.

TRD-202503190

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

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Proposal publication date: March 21, 2025

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



TITLE 34. PUBLIC FINANCE

PART 1. COMPTROLLER OF PUBLIC ACCOUNTS

CHAPTER 16. COMPTROLLER GRANT PROGRAMS

SUBCHAPTER C. TEXAS OPIOID ABATEMENT FUND PROGRAM

34 TAC §§16.200, 16.208, 16.211

The Comptroller of Public Accounts adopts amendments to §16.200, concerning definitions, §16.208, concerning grant application review, and §16.211, concerning allowable costs, without changes to the proposed text as published in the May 16, 2025, issue of the *Texas Register* (50 TexReg 2950). The rules will not be republished.

The comptroller amends these sections to make the Opioid Abatement Fund Council's evaluation and review of grant applications more efficient and to prevent excessive costs due to the external peer review of large numbers of grant applications.

The amendments to §16.200 update definitions.

The amendments to §16.208(a) change the application review process to allow grant applications to either be reviewed internally by program staff or through a peer review process based on the value of the grant.

The amendments to §16.211(b) change the grant disbursement process to allow the council to disburse funds on a reimbursement or on an as needed basis as determined by the council to effectuate the purposes of the grant.

The comptroller did not receive any comments regarding adoption of the amendments.

The amendments are adopted under Government Code, §403.511, which authorizes the comptroller to adopt rules to implement Government Code, Chapter 403, Subchapter R, concerning the statewide opioid settlement agreement.

The amendments implement Government Code, Chapter 403, Subchapter R, concerning the statewide opioid settlement agreement.

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

Filed with the Office of the Secretary of State on September 11, 2025.

TRD-202503234

Victoria North

General Counsel for Fiscal and Agency Affairs

Comptroller of Public Accounts

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Proposal publication date: May 16, 2025

For further information, please call: (512) 475-2220



TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 11. TEXAS JUVENILE JUSTICE DEPARTMENT

CHAPTER 344. EMPLOYMENT, CERTIFICATION, AND TRAINING SUBCHAPTER E. TRAINING AND CONTINUING EDUCATION

37 TAC §344.620, §344.622

The Texas Juvenile Justice Department (TJJD) adopts amendments to 37 TAC §344.620, Mandatory Training Topics for Certification Exam for Juvenile Probation Officers, and §344.622, Mandatory Training Topics for Certification Exam for Juvenile Supervision Officers, without changes to the proposed text as published in the August 1, 2025, issue of the *Texas Register* (50 TexReg 5039). The rules will not be republished.

SUMMARY OF CHANGES

Amendments to §344.620 and §344.622 include adding *human trafficking* and *mental health screening instruments* and removing *cultural competency* from the list of mandatory training topics for the certification exams for both juvenile probation officers and juvenile supervision officers. Amendments to §344.620 also include adding *responsivity* to the *risk and needs assessment, case planning, and case management* training topic.

PUBLIC COMMENTS

TJJD did not receive any public comments on the proposed rule-making action.

STATUTORY AUTHORITY

The amended sections are adopted under §221.002, Human Resources Code, which requires the TJJD Board to adopt rules to govern juvenile boards, probation departments, probation officers, programs, and facilities.

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

Filed with the Office of the Secretary of State on September 15, 2025.

TRD-202503257

Jana Jones

General Counsel

Texas Juvenile Justice Department

Effective date: December 1, 2025

Proposal publication date: August 1, 2025

For further information, please call: (512) 490-7278



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, §380.8569

The Texas Juvenile Justice Department (TJJD) adopts amendments to 37 TAC §380.8565, Discharge of Youth with Determinate Sentences upon Transfer to TDCJ or Expiration of Sentence, and §380.8569, Transfer of Youth with Determinate Sentences Adjudicated for Capital Murder, with minor changes in punctuation to the proposed text as published in the August 1, 2025, issue of the *Texas Register* (50 TexReg 5040). The rules will be republished.

SUMMARY OF CHANGES

Amendments to §380.8565 and §380.8569 include: (1) removing the requirement for a youth with a determinate sentence to have spent at least six months in high-restriction facilities before TJJD may request a hearing to transfer the youth to the Texas Department of Criminal Justice-Correctional Institutions Division (TDCJ-CID) if the youth, while assigned to a residential facility, engaged in conduct that meets the elements of the offense of assault of a public servant; and (2) clarifying that one of the behavioral criteria for requesting a TDCJ-CID transfer hearing for a youth with a determinate sentence is that the youth *engaged in conduct meeting the elements* of a felony or Class A misdemeanor (rather than *committed* a felony or misdemeanor) while assigned to a residential facility.

PUBLIC COMMENTS

TJJD did not receive any public comments on the proposed rule-making action.

STATUTORY AUTHORITY

The amended sections are adopted under §242.003, Human Resources Code, which requires the board to adopt rules appropriate to the proper accomplishment of TJJD's functions and to adopt rules for governing TJJD schools, facilities, and programs.

§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, the six-month requirement in 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-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.

(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.

§380.8569. Transfer of Youth with Determinate Sentences Adjudicated for Capital Murder.

(a) Purpose. This rule establishes criteria and the approval process for transferring sentenced offenders adjudicated for capital murder to the Texas Department of Criminal Justice-Parole Division (TDCJ-PD) or the Texas Department of Criminal Justice-Correctional Institutions Division (TDCJ-CID).

(b) Applicability. This rule applies only to sentenced offenders adjudicated for capital murder.

(c) General Provisions.

(1) A detainer or bench warrant is not an automatic bar to earned release. The Texas Juvenile Justice Department (TJJD) releases youth to authorities pursuant to a warrant.

(2) TJJD reviews each youth's progress:

(A) six months after admission to TJJD;

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

(C) 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 TDCJ-PD; and

(D) at other times as appropriate, such as after a major rule violation has been proven at a Level II hearing.

(3) Youth whose committing offense is capital murder must serve the entire minimum period of confinement applicable to the youth's committing offense in high-restriction facilities unless:

(A) the youth is transferred by the committing court to TDCJ-CID;

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

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

(4) A youth who has not received court approval to transfer to TDCJ-CID must be transferred to TDCJ-PD no later than age 19.

(5) 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) Recommendation for Committing Court upon Termination of TJJD's Jurisdiction. TJJD makes a recommendation to the committing court for transfer to TDCJ-PD or TDCJ-CID before a youth turns 19. TJJD considers the following factors in forming its recommendation:

(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 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.

(e) Transfer to TDCJ-CID before Termination of TJJD's Jurisdiction. 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:

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

(2) except as provided by paragraph (4)(A) of this subsection, the youth has spent at least six months in high-restriction facilities, which is counted as follows:

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

(B) 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

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

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

(A) 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, the six-month requirement in paragraph (2) of this subsection does not apply; or

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

(C) 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

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

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

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

(f) 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.

(4) 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.

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

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

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

Filed with the Office of the Secretary of State on September 11, 2025.

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Jana Jones

General Counsel

Texas Juvenile Justice Department

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Proposal publication date: August 1, 2025

For further information, please call: (512) 490-7278



CHAPTER 385. AGENCY MANAGEMENT AND OPERATIONS

SUBCHAPTER A. CONTRACTS

37 TAC §385.1101

The Texas Juvenile Justice Department (TJJD) adopts amendments to 37 TAC §385.1101, Contract Authority and Responsibilities, without changes to the proposed text as published in the August 1, 2025, issue of the *Texas Register* (50 TexReg 5048). The rule will not be republished.

SUMMARY OF CHANGES

Amendments to §385.1101 include adding the following to the list of items that staff must present to the TJJD board for approval: (1) any change order or amendment that extends the length of or postpones the completion of a board-approved contract for six months or more; (2) any change order or amendment to a board-approved contract that increases the total contract amount by at least 10% by substituting certain goods, materials, products, or services; and (3) any change order or amendment with a financial increase that causes the total contract value to meet or exceed the threshold requiring board approval for that contract type.

PUBLIC COMMENTS

TJJD did not receive any public comments on the proposed rule-making action.

STATUTORY AUTHORITY

The amended section is adopted under §242.003, Human Resources Code, which requires the board to adopt rules appropriate to the proper accomplishment of TJJD's functions and to adopt rules for governing TJJD schools, facilities, and programs.

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

Filed with the Office of the Secretary of State on September 15, 2025.

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