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

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

TITLE 19. EDUCATION

PART 1. TEXAS HIGHER EDUCATION COORDINATING BOARD

CHAPTER 2. ACADEMIC AND WORKFORCE EDUCATION

SUBCHAPTER F. APPROVAL PROCESS FOR NEW BACCALAUREATE AND MASTER'S DEGREES AT PUBLIC UNIVERSITIES AND PUBLIC HEALTH-RELATED INSTITUTIONS

19 TAC §2.118

The Texas Higher Education Coordinating Board (Coordinating Board) proposes amendments to Texas Administrative Code, Title 19, Part 1, Chapter 2, Subchapter F, §2.118, concerning Criteria for New Competency-Based Baccalaureate Degrees. Specifically, this amendment will provide clarity to public institutions regarding the allowable threshold for tuition that can be charged for a competency-based baccalaureate degree program offered under the provisions of Texas Education Code, §51.3535. This rule amendment is proposed in conjunction with a rule amendment in Chapter 13, Subchapter G, §13.130 (concerning Cost of Attendance Calculation for Competency-Based Baccalaureate Degree Programs).

Texas Education Code, §51.3535, authorizes the Coordinating Board to adopt rules regarding high demand fields and tuition rates for competency-based baccalaureate degree programs.

Rule 2.118, Criteria for New Competency-Based Baccalaureate Degrees, is amended to include a definition of direct cost of attendance and maximum allowable direct cost of attendance for programs developed under this section.

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

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

Brandon Griggs, Assistant Commissioner for Academic and Health Affairs, has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be clarity for institutions of higher education regarding the allowable threshold for tuition that can be charged for a competency-based degree programs offered under the provisions of Texas Education Code, §51.3535. There are no anticipated economic costs to persons who are required to comply with the section as proposed.

Government Growth Impact Statement

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

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

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

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

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

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

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

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

Comments on the proposed rule or information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research or analysis, may be submitted to Brandon Griggs, Assistant Commissioner for Academic and Health Affairs, P.O. Box 12788, Austin, Texas 78711-2788, or via email at AHAComments@highered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The amendment is proposed under Texas Education Code, Section 51.3535, which provides the Coordinating Board with authority to adopt rules regarding high demand fields and tuition rates for competency-based baccalaureate degree programs.

The proposed amendment affects Texas Administrative Code, §2.118, concerning Criteria for New Competency-Based Baccalaureate Degrees.

§2.118. Criteria for New Competency-Based Baccalaureate Degrees.

(a) Each system shall ensure that one or more institutions of higher education under its control offer a competency-based baccalaureate degree program in accordance with this rule.

(b) Direct Cost of Attendance. For a degree program developed under this section, the cost of attendance shall be defined as the direct cost of attendance, which includes all tuition and fees necessary for completion of the degree program coursework.

(c) [(b)] At least one institution of higher education in each system shall offer a competency-based baccalaureate degree program in one of the following high-demand fields:

(1) CIP 11 - Computer and Information Sciences and Support Services (e.g., computer science, data science, information security/cyber security);

(2) CIP 51 - Health Professions and Related Programs (e.g., nursing, health services, health administration);

(3) CIP 27 - Mathematics and Statistics;

(4) CIP 30.70 Data Science, CIP 30.71 Data Analytics, or CIP 30.08 Mathematics and Computer Science, or;

(5) Any other degree program approved by the Commissioner based on available data demonstrating the program leads to employment in a high-demand field.

(d) [(c)] A competency-based baccalaureate degree program offered under this section is subject to the planning notification required by §2.113 of this subchapter (relating to Submission of Planning Notification), approval required under §2.114 of this subchapter (relating to Approval Required), and §2.4 of this chapter (relating to Types of Approval Required) [2.4 of this chapter (relating to Approval Required)].

(e) [(d)] A competency-based baccalaureate degree program offered under this section is subject to the criteria requirements [for approval] under §2.117 of this subchapter (relating to Criteria for New Baccalaureate and Master's Degrees).

(f) [(e)] An institution may not charge more than the direct cost of attendance as prescribed in Chapter 13, Subchapter G , §13.130 [total tuition provided in chapter 13, subchapter G] of this title (relating to Tuition and Fees) [for a degree program offered under this section].

[(f) This rule applies to each system beginning with the 2026 - 2027 academic year. A system that does not currently offer a competency-based degree in a high-demand field as set out in this section shall submit a planning notification for approval of a program not later than July 1, 2026.]

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

Filed with the Office of the Secretary of State on October 2, 2026.

TRD-202604216
Douglas Brock
General Counsel
Texas Higher Education Coordinating Board
Earliest possible date of adoption: November 15, 2026
For further information, please call: (512) 427-6226

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CHAPTER 4. RULES APPLYING TO ALL PUBLIC INSTITUTIONS OF HIGHER EDUCATION IN TEXAS

SUBCHAPTER F. CLERY ACT COMPLIANCE

19 TAC §§4.120 - 4.124

The Texas Higher Education Coordinating Board (Coordinating Board) proposes new rules in Texas Administrative Code, Title 19, Part 1, Chapter 4, Subchapter F, §§4.120 - 4.124, concerning Clery Act Compliance. Specifically, the new sections will create rules to facilitate compliance with the Clery Act to implement recent legislation.

Texas Education Code, §61.070, provides the Coordinating Board with the authority to adopt rules on the timely issuance of emergency warnings.

Rule 4.120, Policy, creates a requirement that institutions of higher education create policies on the issuance of campus wide warnings.

Rule 4.121, Types of Notifications, describes the two types of emergency warnings.

Rule 4.122, Timing of Warnings, outlines requirements for when warnings must be issued.

Rule 4.123, Methods, describes the methods that should be used to issue warnings.

Rule 4.124, Testing, requires that the system be tested once each semester.

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

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

Andy MacLaurin, Assistant Commissioner for Funding and Financial Aid, has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the sections will be to comply with recent legislation. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

Government Growth Impact Statement

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

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

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

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

(5) the rules will create a new rule;

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

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

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

Comments on the proposed rules or information related to the cost, benefit, or effect of the proposed rules, including any applicable data, research or analysis, may be submitted to Andy MacLaurin, Assistant Commissioner for Funding and Financial Aid, P.O. Box 12788, Austin, Texas 78711-2788, or via email at RulesComments@highered.texas.gov. Comments will be ac-

cepted for 30 days following publication of the proposal in the *Texas Register*.

The new sections are proposed under Texas Education Code, Section 61.070, which provides the Coordinating Board with the authority to adopt rules on the timely issuance of emergency warnings.

The proposed new sections affect Texas Education Code, Section 61.070.

§4.120. Policy.

Institutions of Higher Education shall adopt policies to govern the issuance of campus wide warnings on their campuses pursuant to the Clery Act, (20 U.S.C. Section 1092(f) with implementing regulations found at 34 CFR 668.46), Texas Education Code, §51.218, and the guidelines set out in this subchapter.

§4.121. Types of Notifications.

Institutions of higher education shall issue two types of notifications in conjunction with the Clery Act.

(1) Timely Warning:

(A) to appraise the campus, as it is defined in the implementing regulations of Clery Act, 34 CFR 668.46(a), of a continuous or ongoing threat;

(B) must include, at a minimum:

(i) date of incident(s) prompting the warning;

(ii) nature of incident(s);

(iii) location of incident(s);

(iv) prevention tips; and

(v) information on how to report a similar occurrence;

(C) must be designed to reach entire campus community, which includes students, faculty, staff, and independent contractors who have a regular presence on campus.

(2) Emergency Notification:

(A) to warn the campus community of an immediate threat or danger to health and safety to the members of the campus community or a group within the campus community;

(B) must include, at a minimum:

(i) information about the nature of the emergency and what changes one needs to make immediately as a result;

(ii) immediate action steps, if necessary, which may include evacuation orders, shelter in place orders, or restriction of access to buildings or areas; and

(iii) assurance that an all-clear will be sent when the emergency is over;

(C) may be limited to affected area or group if only part of the campus is affected;

(D) must withhold the names and identifying information of victims.

§4.122. Timing of Warnings.

(a) Both Timely Warnings and Emergency Notifications shall be issued as soon as pertinent information is available and confirmed that meets the standards set forth in §4.121 of this subchapter (relating to Types of Notifications).

(b) If, in the professional judgment of the person responsible for issuing the Timely Warning or Emergency Notification, such a communication will compromise efforts to assist a victim or to contain, respond to, or otherwise mitigate the emergency, a communication will not be issued until such a communication will no longer compromise the emergency response so long as such delay will not endanger more individuals.

(c) An all clear message shall be issued via each method through which the original communication was issued once the threat has passed or subsided.

§4.123. Methods.

(a) Timely Warnings and Emergency Notifications shall be distributed by a method intended to reach the maximum number of people.

(b) These methods may include, but are not limited to, text messages, email, and if appropriate and feasible, mobile app push notifications and website banners.

§4.124. Testing.

(a) An institution shall test the emergency alert system established under Texas Education Code, §51.218, at least once during each fall and each spring semester.

(b) An institution shall document, for each test, a description of the exercise, the date and time of the exercise, and whether the exercise was announced or unannounced.

(c) An institution shall publicize its emergency notification procedures in conjunction with at least one test each calendar year.

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

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Douglas Brock
General Counsel
Texas Higher Education Coordinating Board
Earliest possible date of adoption: November 15, 2026
For further information, please call: (512) 427-6495

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CHAPTER 5. RULES APPLYING TO PUBLIC UNIVERSITIES, HEALTH-RELATED INSTITUTIONS, AND/OR SELECTED PUBLIC COLLEGES OF HIGHER EDUCATION IN TEXAS

SUBCHAPTER A. GENERAL PROVISIONS

19 TAC §5.5

The Texas Higher Education Coordinating Board (Coordinating Board) proposes amendments to Texas Administrative Code, Title 19, Part 1, Chapter 5, Subchapter A, §5.5, concerning Uniform Admission Policy. Specifically, Senate Bill 1241, 89th Texas Legislature, Regular Session, directed the Coordinating Board to conduct a study to identify each college entrance examination with sufficient rigor and reliability to be used as a criterion for admission to a general academic teaching institution and determine the score for each examination that demonstrates ade-

quate performance for purposes of admission to a general academic teaching institution. At its Quarterly Meeting on July 22, 2026, the Coordinating Board approved the report. The Coordinating Board convened a negotiated rulemaking committee to consider the proposed amendments to the rule. The committee reached a general consensus on the proposal, and the proposed rule substantively reflects the committee's determinations. The Coordinating Board will make reports of negotiated rulemaking committees available upon request.

Texas Education Code, §51.807, provides the Coordinating Board with the authority to adopt rules to implement the provisions of Texas Education Code, Chapters 51.803 - 51.805, concerning Uniform Admission.

Rule 5.5, Uniform Admission Policy, is amended to add the Classic Learning Test (CLT) and requisite scores as an option, in addition to SAT and ACT, for students who do not meet top 10% or 25% grade point average of the student's high school graduating class and Distinguished Level of Achievement requirements for automatic admission. Changes are effective for admissions starting fall 2028.

Carrie Gits, Assistant Commissioner for Student Success and Institutional Partnerships, has determined that for each year of the first five years the section is in effect, there will not be any fiscal implications to state or local government as a result of enforcing or administering the rule. There are no estimated reductions in costs to the state or local governments as a result of enforcing or administering the rule. There are no estimated losses or increases in revenue to the state or local governments as a result of enforcing or administering the rule.

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

Carrie Gits, Assistant Commissioner for Student Success and Institutional Partnerships, has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be increased efficiency and effectiveness of student assessment and placement. There are no anticipated economic costs to persons who are required to comply with the section as proposed.

Government Growth Impact Statement

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

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

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

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

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

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

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

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

Comments on the proposed rule or information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research or analysis, may be submitted to Carrie Gits, Assistant Commissioner for Student Success and Institutional Partnerships, P.O. Box 12788, Austin, Texas 78701, or Carrie.Gits@highered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The amendment is proposed under the Texas Education Code, Section 51.807, which provides the Coordinating Board with the authority to adopt rules to implement the provisions of Texas Education Code, Chapters 51.803- 51.805, concerning Uniform Admission.

The proposed amendment affects Texas Education Code, Sections 51.801 - 51.809.

§5.5. Uniform Admission Policy.

(a) Each public university shall admit first-time undergraduate students for each semester in accordance with Texas Education Code, §§51.801 - 51.809. Only The University of Texas at Austin shall admit students under Texas Education Code §51.803(a-1) - (a-5) and subsection (e) of this section.

(b) All applicants from Texas schools accredited by a generally recognized accrediting agency and who graduate in the top 10 percent of their high school class or who graduate in the top 25 percent of their high school class, to the extent the governing board of a general academic teaching institution has adopted such an admission policy, shall be admitted to a general academic teaching institution if the student meets the following conditions:

(1) The student has met one of the following:

(A) Successfully completed the distinguished level of achievement under the Foundation, Recommended, or Advanced High School Program from a Texas public high school as outlined under Texas Education Code, §28.025, as well as, 19 TAC §§74.63, 74.64, 74.73, and 74.74 (relating to the distinguished level of achievement under the Foundation, Recommended High School Program, or Distinguished Achievement High School Program--Advanced High School Program);

(B) Successfully completed a curriculum from a high school in Texas other than a public high school that is equivalent in content and rigor to the distinguished level of achievement under the Foundation, the Recommended, or Advanced High School Program as outlined under subsection (c) of this section; or

(C) Beginning with admissions for the 2028 Fall Semester, achieved the minimum scores on at least one of the college entrance examinations under clause (i), (ii), or (iii) of this subparagraph:

(i) Earned on the ACT assessment a minimum score of 18 on the English test, a minimum score of 22 on the Reading test, and a minimum score of 22 on the Math test; or a minimum combined score of 40 on the English and Reading tests and a minimum score of 22 on the Math test;

(ii) Earned on the SAT assessment a minimum score of 480 on the Evidence-Based Reading and Writing (EBRW) test and a minimum score of 530 on the mathematics test (no combined score);

(iii) Earned on the Classic Learning Test (CLT) assessment a minimum score of 40 on the Verbal Reasoning + Grammar/Writing test and a minimum score of 20 on the Quantitative Reasoning test.

~~[(C) Satisfied ACT's College Readiness Benchmarks on the ACT assessment; or]~~

~~[(D) Earned on the SAT assessment:]~~

[(i) ~~if the SAT was administered prior to March 5, 2016, a combined critical reading (formerly "verbal") and mathematics score of 1070 with a minimum of 500 on the critical reading test and a minimum of 500 on the mathematics test; or~~]

[(ii) ~~if the SAT was administered on or after March 5, 2016, a minimum score of 480 on the Evidenced-Based Reading and Writing (EBRW) test and a minimum score of 530 on the mathematics test (no combined score); and~~]

(2) The student submitted an official high school transcript or diploma that must, not later than the end of the student's junior year, indicate whether the student has satisfied the requirements outlined under paragraph (1)(A) or (B) of this subsection.

(3) For applicants who graduate in the top 10 percent of their high school class and want to be considered for automatic admission under Texas Education Code, §51.803, the student must:

(A) Submit a complete application defined by the institution before the expiration of the institution's established deadline; and

(B) Have graduated from high school within the two years prior to the academic year for which the student is applying for admission.

(c) A student is considered to have satisfied the requirements of subsection (b)(1)(A) or (B) of this section if the student completed all or the portion of the distinguished level of achievement under the Foundation, Recommended, or Advanced High School Program of a curriculum equivalent in content and rigor, as applicable, that was available to the student. A student may be considered to have completed the distinguished level of achievement under the Foundation, Recommended, or Advanced High School curriculum if a student was unable to complete the remainder of the curriculum solely because courses necessary to complete the remainder were unavailable to the student at the appropriate times in the student's high school career as a result of course scheduling, lack of enrollment capacity, or another cause not within the student's control. The standards for determining whether a student has satisfied the requirements of this subsection include the following:

(1) For a student in a Texas public high school, the public high school providing to a Texas public institution of higher education the Academic Achievement Record or transcript outlined under subsection (b)(2) of this section must indicate, in a form and manner prescribed by the Commissioner of Higher Education, which may include electronic transcript submission and digital verification, whether the student has completed all or a portion of the distinguished level of achievement under the Foundation, Recommended, or Advanced High School Program or of the curriculum equivalent in content and rigor, as applicable, that was available.

(2) For a student in a Texas private high school, the private high school providing to a Texas public institution of higher education the transcript or diploma outlined under subsection (b)(2) of this section must:

(A) Be accredited by the Texas Private School Accreditation Commission or other accrediting organizations recognized by the Texas Education Agency; and

(B) Indicate, in a form and manner prescribed by the Commissioner of Higher Education, which may include electronic transcript submission and digital verification, whether the student has completed all or a portion of the distinguished level of achievement under the Foundation, Recommended, or Advanced High School Program or of the curriculum equivalent in content and rigor, as applicable, that was available.

(d) All applicants from high schools operated by the United States Department of Defense and who graduate in the top 10 percent of their high school class shall be admitted to a general academic teaching institution if the student meets the following conditions, or if subsection (c) of this section applies whether the student has completed the portion of the distinguished level of achievement under the Foundation, recommended, or advanced curriculum or of the curriculum equivalent in content and rigor, as applicable, that was available to the student:

(1) The student graduated from high school within the two years prior to the academic year for which the student is applying;

(2) The student is a Texas resident as defined in Texas Education Code, §54.052 or is entitled to pay tuition and fees at the rate provided for Texas residents for the term or semester to which the student is admitted;

(3) The student submitted a complete application as defined by the institution before the expiration of the institution's established deadline; and

(4) The student meets the curriculum or the ACT/SAT/CLT test score requirements as outlined under subsection (b)(1)(C) of this section.

(e) [~~For the period beginning with the 2011-2012 academic year,~~] The University of Texas at Austin is not required to admit applicants under this subchapter in excess of the number needed to fill 75 percent of first-time resident undergraduate students.

(f) High school rank for students seeking automatic admission to a general academic teaching institution on the basis of their class rank is determined and reported as follows: Class rank shall be the most recent available rank, based on a point in time no earlier than the end of the 11th grade, and shall be determined and reported by the high school or school district from which the student graduated or is expected to graduate as a specific number out of the total class size. The top 10 percent and top 25 percent of a high school class shall not contain more than 10 percent and 25 percent, respectively, of the total class size.

[~~(1) Most recent available class rank, based on a point in time no earlier than the end of the 11th grade, shall be used for admission decision-making.~~]

[~~(2) The top 10 percent and top 25 percent of a high school class shall not contain more than 10 percent and top 25 percent, respectively, of the total class size.~~]

[~~(3) The student's rank shall be reported by the applicant's high school or school district as a specific number out of a specific number total class size.~~]

[~~(4) Class rank shall be determined by the school or school district from which the student graduated or is expected to graduate.~~]

(g) A general academic teaching institution may limit the number of students admitted under this section if the number of applicants eligible and applying for admission to the institution under this section exceeds by more than 10 percent the average number of first-time freshmen admitted the previous two academic years. If an institution chooses to limit the number of students admitted under this section, it must ensure that:

(1) Students who graduate in the top 10 percent of their high school class are given admission priority over other applicants eligible under this section; [~~At least 97 percent of first-time freshmen admitted are in the top 10 percent of their high school class;~~] and

(2) Clear, written guidelines are established and applied for the selection of students from among those eligible under this section, consistent with Texas Education Code, Chapter 51, Subchapter U.

~~[(2) Clear guidelines are established for the selection of students based on one or a specified combination of the following methods:]~~

~~[(A) A lottery in which all students qualified for automatic admission have an equal chance for selection;]~~

~~[(B) Students are selected on a first-come, first-admitted basis following receipt of a complete application; or]~~

~~[(C) At least four or more criteria identified in Texas Education Code, §51.805 are used to select students admitted.]~~

(h) The 18 admissions factors outlined in Texas Education Code, §51.805(b) may be considered by a general academic teaching institution when an applicant is eligible for admission under the "other admissions" provision as described in Texas Education Code, §51.805, but only after the applicant has met the curriculum or the ACT/SAT/CLT test score requirements as outlined under subsection (b)(1)(C) of this section. Applicants participating in the minimum, recommended, or advanced high school program may be considered under the "other admissions" provision according to this subsection.

(i) Each public institution of higher education shall admit a student as an undergraduate if the student meets the following conditions:

(1) Is the child of a public servant listed in Texas Government Code, §615.003 who was killed or sustained a fatal injury in the line of duty according to requirements for verification outlined by the institution; and

(2) Meets the minimum admissions requirements established for purposes of this subsection by the governing board of the institution for high school or prior college-level grade point average and performance on standardized tests.

(j) The Board shall determine the composition of the entering class of first-time freshmen students admitted under this section, including race, ethnicity, and economic status, from data each general academic teaching institution submits to the Board through existing institutional reporting, including the Board's Coordinating Board Management (CBM) reports. A separate annual demographic report under this subsection is not required.

~~[(j) Each general academic teaching institution shall annually report to the Board the composition of the entering class of first-time freshmen students admitted under this section. The report shall include a demographic breakdown of the class including race, ethnicity, and economic status. Each general academic teaching institution shall provide this report to the Board annually on or before a date set by the Board.]~~

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

Filed with the Office of the Secretary of State on October 2, 2026.

TRD-202604218
Douglas Brock
General Counsel
Texas Higher Education Coordinating Board
Earliest possible date of adoption: November 15, 2026
For further information, please call: (512) 427-6541

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CHAPTER 13. FINANCIAL PLANNING
SUBCHAPTER G. TUITION AND FEES
19 TAC §13.130

The Texas Higher Education Coordinating Board (Coordinating Board) proposes amendments to Texas Administrative Code, Title 19, Part 1, Chapter 13, Subchapter G, §13.130, concerning Cost of Attendance Calculation for Competency-Based Baccalaureate Degree Programs. Specifically, this amendment will provide clarity to public institutions regarding the allowable threshold for what can be charged for a competency-based baccalaureate degree program offered under the provisions of Texas Education Code, §51.3535. This rule amendment is proposed in conjunction with a rule amendment in Chapter 2, Subchapter F, §2.118 (concerning Criteria for New Competency-Based Baccalaureate Degrees).

Texas Education Code, §51.3535, authorizes the Coordinating Board to adopt rules regarding competency-based baccalaureate degree programs.

Rule 13.130, Cost of Attendance Calculation for Competency-Based Baccalaureate Degree Programs, is amended by replacing the definition of "competency-based baccalaureate program" in subsection (b) to instead refer to a definition in §2.3, clarifying references throughout the rule to specifically refer to either "total cost of attendance" or "direct cost of attendance", and removing subsection (e). The net effect of these changes is to narrow the scope of the rule to the calculation of the maximum allowable direct cost of attendance itself, with any compliance-related considerations located in §2.118.

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

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

Andy MacLaurin, Assistant Commissioner for Funding and Financial Aid, has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be clarity for institutions of higher education regarding the allowable threshold for what can be charged for a competency-based degree programs offered under the provisions of Texas Education Code, §51.3535. There are no anticipated economic costs to persons who are required to comply with the section as proposed.

Government Growth Impact Statement

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

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

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

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

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

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

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

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

Comments on the proposed rule or information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research or analysis, may be submitted to Andy MacLaurin, Assistant Commissioner for Funding and Financial Aid, P.O. Box 12788, Austin, Texas 78711-2788, or via email at FinAid@highered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The amendment is proposed under Texas Education Code, §51.3535, which provides the Coordinating Board with authority to adopt rules regarding certain competency-based baccalaureate degree programs.

The proposed amendment affects Texas Administrative Code, Title 19, Part 1, Chapter 13, Subchapter G.

§13.130. Cost of Attendance Calculation for Competency-Based Baccalaureate Degree Programs.

(a) Authority. Authority for this section is Texas Education Code, §51.3535, Responsibility of System Administration Regarding Competency-Based Education.

(b) Definitions. In addition to the words and terms defined in §13.1 of this chapter (relating to Definitions) and §13.121 of this subchapter (relating to Definitions), the following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise:

(1) Competency-Based Baccalaureate Degree Program--As defined in §2.3 of this title (relating to Definitions) [~~A baccalaureate degree program under which academic credit is awarded based solely on a student's attainment of competencies. The term may include a program that is organized around traditional course-based units, including for online or other distance education, that a student must earn for degree completion~~].

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

(3) Direct Cost of Attendance--The tuition and fees necessary for completion of the degree program coursework. It includes direct educational costs, books and supplies, and technology and material fees.

(4) [~~(3)~~] Medical or Dental Unit--As defined in Texas Education Code, §61.003.

(5) [~~(4)~~] University System--As defined in Texas Education Code, §61.003.

(c) Applicability. The provisions of this section apply only to a general academic teaching institution or medical or dental unit associated with a university system in meeting the requirement to offer competency-based baccalaureate degree programs in high-demand fields of study under Texas Education Code, §51.3535.

(d) Calculation [~~Maximum Allowable Cost of Attendance~~]. The Coordinating Board shall annually determine and announce the maximum allowable direct cost of attendance for a competency-based baccalaureate degree program offered under Texas Education Code, §51.3535.

(1) For the 2026 - 2027 academic year, the amount will equal one-half of the average total cost of attendance for resident baccalaureate students at general academic teaching institutions or medical or dental units associated with a university system.

(2) Not later than the final day of January prior to the start of each subsequent fiscal year, the Coordinating Board shall determine and announce the amount for the forthcoming fiscal year, calculated by using the Consumer Price Index for the preceding twelve months, as calculated by the U.S. Bureau of Labor Statistics, to apply an inflationary adjustment to amount announced for the prior fiscal year.

[~~(e) The cost of attendance of a competency-based baccalaureate degree program offered under Texas Education Code, §51.3535, may not exceed the amount described by subsection (d) of this section for the applicable fiscal year.~~]

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

Filed with the Office of the Secretary of State on October 2, 2026.

TRD-202604222
Douglas Brock
General Counsel
Texas Higher Education Coordinating Board
Earliest possible date of adoption: November 15, 2026
For further information, please call: (512) 427-6495

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PART 2. TEXAS EDUCATION AGENCY

CHAPTER 101. ASSESSMENT

SUBCHAPTER CC. COMMISSIONER'S RULES CONCERNING IMPLEMENTATION OF THE ACADEMIC CONTENT AREAS TESTING PROGRAM

DIVISION 1. IMPLEMENTATION OF ASSESSMENT INSTRUMENTS

19 TAC §101.3011

The Texas Education Agency (TEA) proposes an amendment to §101.3011, concerning implementation and administration of academic content area assessment instruments. The proposed amendment would remove the English II end-of-course requirement for alternative assessment instruments after the 2026-2027 school year and add a provision allowing for eligible virtual campuses and programs to administer state assessments remotely.

BACKGROUND INFORMATION AND JUSTIFICATION: Senate Bill (SB) 569, 89th Texas Legislature, Regular Session, 2025, repealed Texas Education Code (TEC), Chapter 30A, related to the Texas Virtual School Network; established Texas Education Code (TEC), Chapter 30B, creating a new policy framework for virtual and hybrid education; and provided a transition period for already existing courses, programs, and campuses.

Under TEC, Chapter 30B, school systems may offer virtual and hybrid instruction through a variety of models, including individual courses, programs, or full-time virtual and hybrid campuses. This breadth of options allows districts to align offerings with their instructional goals and operational capacity, whether by starting with targeted courses or implementing comprehensive models such as full-time virtual and hybrid programs and campuses.

The proposed amendment to §101.3011(c) would add the option for authorized virtual campuses and programs to administer state-required assessments remotely.

In addition, TEC, §39.023(c), as amended by House Bill (HB) 8, 89th Texas Legislature, 2nd Called Session, 2025, removed the English II end-of-course assessment from the list of required high school assessments. HB 8 established a new statewide assessment program to be implemented beginning with the 2027-2028 school year. Accordingly, the proposed amendment to §101.3011(b) would specify that the English II end-of-course assessment for students subject to assessment requirements remains in effect only through the 2026-2027 school year. Beginning in the 2027-2028 school year, the English II end-of-course assessment will be discontinued.

FISCAL IMPACT: Iris Tian, deputy commissioner of analytics, assessment and reporting, has determined that for the first five years the proposal is in effect, there are no fiscal implications for local government. While there will be additional costs to state government, these costs will be absorbed by the current budget for state assessments. The proposed amendment implements SB 569, 89th Texas Legislature, Regular Session, 2025, which created a new policy framework for virtual and hybrid education. The proposed amendment would add the option for virtual schools to administer state-required assessments remotely. The estimated cost to TEA to implement remote testing is $105,200 per year during fiscal years 2027-2031.

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

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

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

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

GOVERNMENT GROWTH IMPACT: TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would expand an existing regulation by providing an additional option for eligible virtual campuses and programs to administer state-required assessments remotely. The proposed rulemaking would also limit an existing regulation by removing the English II assessment administration requirement after the 2026-2027 school year.

The proposed rulemaking would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not create a new regulation; would not repeal an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

PUBLIC BENEFIT AND COST TO PERSONS: Ms. Tian has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposal would be to provide authorized virtual campuses and programs with the option to test students remotely. Allowing remote testing for authorized virtual schools would improve access to state assessments and increase participation by removing geographic and logistical barriers that can be especially challenging for rural, medically fragile, and economically disadvantaged students and their families. Remote testing also better aligns with how virtual students receive instruction and supports a more efficient and consistent approach to administering assessments statewide. There is no anticipated economic cost to persons who are required to comply with the proposal.

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

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

PUBLIC COMMENTS: TEA requests public comments on the proposal, including, per Texas Government Code, §2001.024(a)(8), information related to the cost, benefit, or effect of the proposed rule and any applicable data, research, or analysis, from any person required to comply with the proposed rule or any other interested person. The public comment period on the proposal begins October 16, 2026, and ends November 16, 2026. A request for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 14 calendar days after notice of the proposal has been published in the *Texas Register* on October 16, 2026. A form for submitting public comments is available on the TEA website at https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_(TAC)/Proposed_Commissioner_of_Education_Rules/.

STATUTORY AUTHORITY. The amendment is proposed under TEC, §39.023, as amended by HB 1416, 88th Texas Legislature, Regular Session, 2023; SB 1418, 89th Texas Legislature, Regular Session, 2025; and HB 8, 89th Texas Legislature, 2nd Called Session, 2025, which requires the agency to adopt or develop appropriate criterion-referenced assessment instruments designed to assess essential knowledge and skills in reading, writing, mathematics, social studies, and science; and TEC, §39.025, as amended by HB 1416, 88th Texas Legislature, Regular Session, 2023; SB 1418, 89th Texas Legislature, Regular Session, 2025; and HB 8, 89th Texas Legislature, 2nd Called Session, 2025, which requires the commissioner to adopt rules requiring a student in the foundation high school program to be administered an end-of-course assessment instrument.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code, §39.023 and §39.025, as amended by HB 1416, 88th Texas Legislature, Regular Session,

2023; SB 1418, 89th Texas Legislature, Regular Session, 2025; and HB 8, 89th Texas Legislature, 2nd Called Session, 2025.

§101.3011. Implementation and Administration of Academic Content Area Assessment Instruments.

(a) The Texas Education Agency (TEA) shall administer each assessment instrument under Texas Education Code (TEC), §39.023(a), (b), (c), and (l), in accordance with the rules governing the assessment program set forth in this chapter [~~Chapter 101 of this title (relating to Assessment)~~] .

(1) For purposes of federal accountability as allowed by subsection (d) of this section, a Grade 3-8 student shall not be administered a grade-level assessment if the student:

(A) is enrolled in a course or subject intended for students above the student's enrolled grade level and will be administered a grade-level assessment instrument developed under TEC, §39.023(a), that aligns with the curriculum for that course or subject within the same content area; or

(B) is enrolled in a course for high school credit in a subject intended for students above the student's enrolled grade level and will be administered an end-of-course assessment instrument developed under TEC, §39.023(c), that aligns with the curriculum for that course or subject within the same content area.

(2) For purposes of federal accountability as allowed by subsection (d) of this section, a Grade 3-8 student who is accelerated in mathematics, reading/language arts, or science and on schedule to complete the high school end-of-course assessments in that same content area prior to high school shall be assessed at least once in high school with the ACT® or the SAT®.

(3) A student is only eligible to take an assessment instrument intended for use above the student's enrolled grade if the student is on schedule to complete instruction in the entire curriculum for that subject during the semester the assessment is administered.

(4) A student shall be administered the assessments under TEC, §39.023(a), (c), and (l), online as required by TEC, §39.0234, except for a student:

(A) who requires specific accommodations that cannot be provided online as specified in the test administration materials; or

(B) who is enrolled in a school district or open-enrollment charter school that opts to offer paper administrations of assessments to students whose parent, guardian, or teacher in the applicable subject area requests a paper administration of an assessment. Requests for such paper administrations must be submitted to the school district or open-enrollment charter school by the dates indicated in TEC, §39.02342(b). Requests for these paper administrations from a district or charter school may not exceed 3% of eligible students enrolled in the district or charter school who are administered each assessment.

(b) [~~The~~] TEA shall administer alternative assessment instruments under TEC, §39.023(b), that correspond to:

(1) the assessment instruments required under TEC, §39.023(a); [~~and~~]

(2) the following assessment instruments required under TEC, §39.023(c): English I, [~~English II ,~~] Algebra I, biology, and U.S. history; and [~~.~~]

(3) the English II end-of-course assessment required under TEC, §39.023(c), for eligible students through the 2026-2027 school year.

(c) Test administration procedures shall be established by [~~the~~] TEA in the applicable test administration materials. A school district, an open-enrollment charter school, or a private school administering the tests required by TEC, Chapter 39, Subchapter B, shall follow procedures specified in the applicable test administration materials. The following entities may administer assessments required under TEC, Chapter 39, Subchapter B, remotely in accordance with procedures specified in the applicable test administration materials:

(1) a full-time virtual campus as defined by TEC, §30B.001(3);

(2) a full-time virtual program as defined by TEC, §30B.001(4); and

(3) a full-time virtual campus of a school district or open-enrollment charter school that in the 2026-2027 school year operates in accordance with TEC, Chapter 30A, as that law existed before the effective date of Senate Bill 569, §15(a), 89th Texas Legislature, Regular Session, 2025.

(d) In accordance with TEC, §39.023(a)(5), [~~the~~] TEA shall administer to students assessments in any other subject and grade required by federal law.

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

Filed with the Office of the Secretary of State on October 5, 2026.

TRD-202604235
Cristina De La Fuente-Valadez
Director, Rulemaking
Texas Education Agency
Earliest possible date of adoption: November 15, 2026
For further information, please call: (512) 475-1497

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PART 7. STATE BOARD FOR EDUCATOR CERTIFICATION

CHAPTER 231. REQUIREMENTS FOR PUBLIC SCHOOL PERSONNEL ASSIGNMENTS

SUBCHAPTER A. CRITERIA FOR ASSIGNMENT OF PUBLIC SCHOOL PERSONNEL

19 TAC §231.1

The State Board for Educator Certification (SBEC) proposes an amendment to 19 Texas Administrative Code (TAC) §231.1, concerning criteria for assignment of public school personnel. The proposed amendment would clarify requirements related to the criteria for school districts to make personnel assignments based on the correlating certification requirements.

BACKGROUND INFORMATION AND JUSTIFICATION: The SBEC rules in 19 TAC Chapter 231 establish the personnel assignments that correlate with appropriate certifications. Subchapters in this chapter offer guidance to school districts and educators by providing the list of courses by grade level and subject area and identifying the corresponding certificates and other requirements for the placement of individuals into classroom and/or campus assignments. This information assists districts

with hiring and personnel assignment decisions. Subchapter A, Criteria for Assignment of Public School Personnel, provides a set of criteria to support district personnel decision-making when assigning public school personnel.

In February 2025, the SBEC adopted revisions to 19 TAC Chapter 231, Requirements for Public School Personnel Assignments, Subchapter F, Special Education-Related Services Personnel Assignments, that updated requirements for placement into special education-related personnel assignments.

The proposed amendment to 19 TAC Chapter 231, Subchapter A, would ensure alignment with Subchapter F.

Subchapter A. Criteria for Assignment of Public School Personnel

§231.1. Criteria for Assignment of Public School Personnel

The proposed amendment to §231.1 would strike subsection (c) to ensure that stakeholders refer to the appropriate sections of the chapter for specific personnel assignment requirements.

FISCAL IMPACT: Jessica McLoughlin, associate commissioner for educator preparation and talent development, has determined that for the first five years of enforcing or administering the rules, the proposal does not have foreseeable implications relating to cost or revenue of state or local governments. There are no additional costs to entities required to comply with the proposal.

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

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

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

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

GOVERNMENT GROWTH IMPACT: Texas Education Agency (TEA) staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would repeal an existing regulation to align with existing, more specific regulations already in rule.

The proposed rulemaking would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not create a new regulation; would not expand or limit an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

PUBLIC BENEFIT AND COST TO PERSONS: Jessica McLoughlin, associate commissioner for educator preparation and talent development, has determined that for the first five years the proposal is in effect, the public benefit anticipated would be aligning the rules with statute and reflecting current procedures. There is no anticipated economic cost to persons who are required to comply with the proposal.

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

ENVIRONMENTAL IMPACT: The proposal does not require an environmental impact analysis because the proposal does not include major environmental rules under TGC, §2001.0225.

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

PUBLIC COMMENTS: The SBEC requests public comments on the proposal, including, per TGC, §2001.024(a)(8), information related to the cost, benefit, or effect of the proposed rule and any applicable data, research, or analysis, from any person required to comply with the proposed rule or any other interested person. The public comment period on the proposal begins October 16, 2026, and ends November 16, 2026. A form for submitting public comments is available on the TEA website at https://tea.texas.gov/laws-and-rules/sbec-rules-tac/proposed-state-board-educator-certification-rules. Comments on the proposal may also be submitted by calling (512) 475-1497. The SBEC will also take registered oral and written comments on the proposal during the December 2026 meeting's public comment period in accordance with the SBEC board operating policies and procedures.

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

CROSS REFERENCE TO STATUTE. The amendment implements TEC, §§21.003(a), 21.031(a), 21.041(b)(1) and (2), and 21.064.

§231.1. Criteria for Assignment of Public School Personnel.

(a) A public school employee must have the appropriate credentials for his or her current assignment specified in this chapter and in other rules of the State Board for Educator Certification (SBEC), unless the appropriate permit has been issued under Chapter 230, Subchapter F, of this title (relating to Permits).

(b) The assignment requirements in this chapter apply to the holders of certificates issued on the basis of 1955, 1972, 1984, and 1987 Standards for Teacher Education as well as certificates issued on the

basis of standards aligned with the Texas essential knowledge and skills curriculum, adopted by the State Board of Education, as specified in Chapter 233 of this title (relating to Categories of Classroom Teaching Certificates).

~~[(c) An elementary certificate may be appropriate for teaching high school students if the level of instruction is comparable to that in elementary grades. When such an assignment is made, course outlines must be maintained in the school district files.]~~

(c) [~~(d)~~] Professional personnel employed in federally funded programs and innovative programs must have the qualifications and meet the assignment requirements specified in this chapter and in other rules of the SBEC.

(d) [~~(e)~~] The assignment requirements in this chapter apply to substitute teachers. If a school district must employ a substitute teacher who is not certified, the district must ensure the individual has the appropriate knowledge and skills to serve in the assignment. A list of the substitute teachers shall be retained in the school district files.

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

Filed with the Office of the Secretary of State on October 5, 2026.

TRD-202604240
Cristina De La Fuente-Valadez
Director, Rulemaking
State Board for Educator Certification
Earliest possible date of adoption: November 15, 2026
For further information, please call: (512) 475-1497

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TITLE 25. HEALTH SERVICES

PART 1. DEPARTMENT OF STATE HEALTH SERVICES

CHAPTER 3. ADVISORY COMMITTEES, COUNCILS, AND BOARDS

25 TAC §3.7

The executive commissioner of the Texas Health and Human Services Commission (HHSC), on behalf of the Texas Department of State Health Services (DSHS), proposes new §3.7, concerning the Texas Radiation Advisory Board (TRAB).

BACKGROUND AND PURPOSE

The purpose of the proposal is to improve public access to DSHS advisory committee, council, task force, and board rules by moving all advisory committee, council, task force, and board rules into a single chapter. The current TRAB rule is repealed from 25 Texas Administrative Code (TAC) Chapter 289 and relocated in 25 TAC Chapter 3. The repeal is published elsewhere in this issue of the *Texas Register*. The new TRAB rule is updated to align with the Health and Human Services advisory committee rule template.

SECTION-BY-SECTION SUMMARY

Proposed new §3.7(a), (b), and (c) provide the applicable statutes governing the TRAB, its purpose, and tasks the TRAB performs.

Proposed new §3.7(d) provides the requirements for submitting an annual written report.

Proposed new §3.7(e) provides the meeting, frequency, and quorum requirements. It also includes how the public can participate in a meeting and the documentation requirements.

Proposed new §3.7(f) provides the membership requirements of the TRAB.

Proposed new §3.7(g) describes how the officers are selected and terms of office.

Proposed new §3.7(h) establishes training requirements for the TRAB.

Proposed new §3.7(i) provides for the establishment of subcommittees by the TRAB.

Proposed new §3.7(j) outlines attendance requirements for TRAB members.

Proposed new §3.7(k) establishes procedures for board meetings.

Proposed new §3.7(l) provides for reimbursement of expenses for TRAB members.

Proposed new §3.7(m) adds an abolishment subsection. The TRAB is established by Chapter 401 and has no abolition date.

FISCAL NOTE

Christy Havel Burton, Chief Financial Officer, has determined that for each year of the first five years that the rule will be in effect, enforcing or administering the rule does not have foreseeable implications relating to costs or revenues of state or local governments.

GOVERNMENT GROWTH IMPACT STATEMENT

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

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

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

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

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

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

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

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

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

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

Christy Havel Burton has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities because the rule does not apply to small or micro-businesses, or rural communities.

LOCAL EMPLOYMENT IMPACT

The proposed rule will not affect a local economy.

COSTS TO REGULATED PERSONS

Texas Government Code §2001.0045 does not apply to this rule because the rule is necessary to protect the health, safety, and welfare of the residents of Texas and does not impose a cost on regulated persons.

PUBLIC BENEFIT AND COSTS

Timothy Stevenson, Deputy Commissioner, Consumer Protection Division, has determined that for each year of the first five years the rule is in effect, the public benefit will be improved access to uniformly formatted DSHS advisory committee, council, task force, and board rules located in a single chapter.

Christy Havel Burton has also determined that for the first five years the rule is in effect, there are no anticipated economic costs to persons who are required to comply with the proposed rule because the proposal does not impose requirements on private individuals or businesses.

TAKINGS IMPACT ASSESSMENT

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

PUBLIC COMMENT

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

To be considered, comments must be submitted no later than 31 days after the date of this issue of the *Texas Register*. Comments must be (1) postmarked or shipped before the last day of the comment period; (2) hand-delivered before 5:00 p.m. on the last working day of the comment period; or (3) emailed before midnight on the last day of the comment period. If the last day to submit comments falls on a holiday, comments must be postmarked, shipped, or emailed before midnight on the following business day to be accepted. When emailing comments, please indicate "Comments on Proposed Rule 26R063" in the subject line.

STATUTORY AUTHORITY

The new section is authorized by Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services system, Texas Health and Safety Code §1001.075, which authorizes the executive commissioner of HHSC to adopt rules and policies for the operation and provision of health and human services by DSHS and for the administration of Texas Health and Safety Code Chapter 1001, Texas Health and Safety Code §401.015 through §401.019, which establishes the Texas Radiation Advisory Board and authorizes rules necessary for its operation, and Texas Government Code Chapter 2110, which governs state agency advisory committees.

The new section affects Texas Government Code §524.0151, Chapter 2110 and Texas Health and Safety Code Chapter 1001 and §401.015 through §401.019.

§3.7. Texas Radiation Advisory Board.

(a) Statutory authority. The Texas Radiation Advisory Board (TRAB) is established under Texas Health and Safety Code §401.015 and is subject to Texas Government Code Chapter 2110.

(b) Purpose. TRAB advises the executive commissioner, the Texas Department of State Health Services (DSHS), the Railroad Commission of Texas (RRC), the Texas Commission on Environmental Quality (TCEQ), and other state agencies concerning state radiation policies and programs.

(c) Tasks. TRAB:

(1) reviews and evaluates state radiation policies and programs;

(2) makes recommendations and furnishes technical advice to DSHS, RRC, TCEQ, and other state agencies relating to development, use, and regulation of radiation sources;

(3) reviews proposed rules and guidelines of any state agency related to the regulation of sources of radiation and recommends changes in proposed or existing rules and guidelines relating to those matters;

(4) develops and implements policies that provide the public with a reasonable opportunity to appear before TRAB and to speak on any issue under the jurisdiction of TRAB; and

(5) adopts bylaws to guide TRAB's operation.

(d) Reporting requirements. By December 31 of each year, TRAB files an annual written report with the executive commissioner summarizing the meetings and activities from the previous fiscal year. The report includes:

(1) a list of the meeting dates;

(2) the members' attendance records;

(3) a brief description of actions taken by TRAB;

(4) a description of how TRAB accomplished its tasks;

(5) a description of activities TRAB anticipates undertaking in the next fiscal year;

(6) recommended amendments to this section; and

(7) the costs related to TRAB, including the cost of DSHS staff time spent supporting TRAB's activities and the source of funds used to support the board's activities.

(e) Meetings.

(1) Open meetings. TRAB is not a "governmental body" as defined in the Open Meetings Act. However, to promote public participation, each TRAB meeting is announced and conducted per the Open Meetings Act, Texas Government Code Chapter 551, except provisions allowing executive sessions.

(2) Frequency. TRAB meets quarterly on dates set by TRAB.

(A) A special meeting may be called by the chairperson or at least five members.

(B) Meetings are arranged and supported by DSHS staff.

(C) Members of TRAB will be provided timely notice of each meeting.

(3) Quorum. A simple majority of all members constitutes a quorum to transact official business. TRAB is authorized to conduct

official business only when in a legally constituted meeting with a quorum present.

(4) Public comment. The agenda for each TRAB meeting includes an item titled Public Comment, under which any person will be allowed to address TRAB on matters relating to TRAB business. The chairperson may establish procedures for public comment, including a time limit on each comment.

(5) Documentation. A record of each TRAB meeting must be made as specified in subsection (k)(4) of this section.

(f) Membership.

(1) TRAB includes 19 members appointed by the Governor:

(A) one representative from industry who is trained in nuclear physics, science, or nuclear engineering;

(B) one representative from labor;

(C) one representative from agriculture;

(D) one representative from the insurance industry;

(E) one individual who is engaged in the use and application of nuclear physics in medicine and is certified by the American Board of Radiology or licensed by the Texas Medical Board (TMB) under Texas Occupations Code Chapter 602;

(F) one hospital administrator;

(G) one individual licensed by the TMB who specializes in nuclear medicine;

(H) one individual licensed by the TMB who specializes in pathology;

(I) one individual licensed by the TMB who specializes in radiology;

(J) one representative from the nuclear utility industry;

(K) one representative from the radioactive waste industry;

(L) one representative from the petroleum industry;

(M) one health physicist certified by the American Board of Health Physics;

(N) one individual licensed by the State Board of Dental Examiners;

(O) one representative from the uranium mining industry;

(P) one individual licensed by the State Board of Veterinary Medical Examiners; and

(Q) three representatives of the public.

(2) Members are appointed for staggered terms so the terms of an equal or almost equal number of members will expire at the end of each term. Regardless of the term limit, a member serves until a replacement has been appointed. This ensures sufficient, appropriate representation.

(A) If a vacancy occurs, the Governor will appoint an individual to serve the unexpired portion of the term.

(B) The term of each member is six years, except the term may be less than six years as necessary to stagger terms. A member may apply to serve one additional term.

(C) An individual is not eligible to be appointed as a representative of the public if that individual or individual's spouse is employed:

(i) in the health care field; or

(ii) by, participates in the management of, or has a financial interest, other than as a consumer in:

(I) any part of the nuclear utility industry; or

(II) a business entity or other organization that is licensed under Texas Health and Safety Code Chapter 401, Subchapter F or Subchapter G.

(g) Officers. The Governor designates a member of TRAB as the chairperson to serve at the will of the Governor. TRAB elects from its members a vice-chairperson and secretary.

(1) The chairperson serves until the first quarterly meeting of the fiscal year of each even-numbered year. The vice-chairperson serves until the first quarterly meeting of the fiscal year of each odd-numbered year.

(2) A member serves no more than two consecutive terms as chairperson or vice-chairperson.

(3) The chairperson presides over all TRAB meetings, calls meetings as specified in this section, appoints subcommittees of TRAB as necessary, and ensures accurate reports are made to TRAB. The chairperson may serve as an ex-officio member of any subcommittee of TRAB.

(4) The vice-chairperson performs the duties of the chairperson, in the event of an absence or the disability of the chairperson. If the position of the chairperson becomes vacant, the vice-chairperson will serve until a successor is appointed to complete the unexpired portion of the chairperson's term.

(5) A vacancy in the office of vice-chairperson or secretary is filled at the next TRAB meeting.

(h) Required training. Each member must complete training on relevant laws and rules, including this section; Texas Government Code Chapters 551, 552, 2001, and 2110; the HHS Ethics Policy; the Advisory Committee Member Code of Conduct; and other relevant HHS policies. Training will be provided by DSHS.

(i) Subcommittees. TRAB may establish subcommittees to assist in carrying out its duties.

(1) The chairperson may appoint members to serve on subcommittees and to act as subcommittee chairpersons. The chairperson may also appoint nonmembers of TRAB to serve on subcommittees, as the need for additional expertise arises.

(2) Subcommittees must meet when called by the subcommittee chairperson or when directed by TRAB.

(3) The subcommittee chairperson makes regular reports to TRAB at each meeting or in interim written reports, as needed. The reports include an executive summary or minutes of each subcommittee meeting.

(j) Attendance. Members must attend TRAB meetings as scheduled. Members must attend and participate in meetings of subcommittees to which the members are assigned.

(1) A member must notify the chairperson or appropriate DSHS staff if the member is unable to attend a scheduled meeting.

(2) A member may be removed from TRAB if the member cannot discharge duties for a substantial part of the appointed term

because of illness or disability; or if absent from more than half of the TRAB meetings during a calendar year, without an excuse approved by a majority vote of the TRAB.

(3) The validity of a TRAB action is not affected by the fact that it is taken when grounds for removal of a member exist.

(k) Procedures. Robert's Rules of Order, Newly Revised, is the basis of parliamentary decisions except where otherwise provided by law or rule.

(1) Any action taken by TRAB must be approved by a majority vote of the members present, once a quorum is established.

(2) Each member may vote once during any call for votes.

(3) A member may not authorize another individual to represent the member by proxy.

(4) Minutes of each TRAB meeting will be taken by DSHS staff. A summary of the meeting is provided to each TRAB member before the next meeting.

(l) Reimbursement for expenses. A member may receive reimbursement for the member's expenses incurred for each day the member engages in official TRAB business as specified in Texas Government Code Chapter 2110.

(1) Compensatory per diem is not paid to members unless required by law. Members are reimbursed for travel, meals, lodging, and incidental expenses to the extent allowed by the current General Appropriations Act. A member may be reimbursed for travel to and from meetings if funds are appropriated and available and it complies with the DSHS Travel Policy.

(2) A member who is an employee of a state agency, other than DSHS, may not receive reimbursement for expenses from DSHS, if the member is reimbursed by that state agency.

(3) A nonmember of TRAB who is appointed to serve on a subcommittee may not receive reimbursement for expenses from DSHS.

(4) Each member to be reimbursed for expenses must submit receipts for expenses and any required official forms to DSHS within 14 days after each TRAB meeting.

(5) Requests for reimbursement of expenses must be made on official state travel vouchers prepared by DSHS staff.

(m) Date of abolishment. TRAB is required by statute and will continue as long as the state law that requires it remains in effect.

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

Filed with the Office of the Secretary of State on September 30, 2026.

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Cynthia Hernandez
General Counsel
Department of State Health Services
Earliest possible date of adoption: November 15, 2026
For further information, please call: (512) 834-6655

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CHAPTER 289. RADIATION CONTROL

SUBCHAPTER C. TEXAS REGULATIONS FOR CONTROL OF RADIATION

25 TAC §289.130

The executive commissioner of the Texas Health and Human Services Commission (HHSC), on behalf of the Texas Department of State Health Services (DSHS), proposes the repeal of §289.130, concerning Radiation Advisory Board (Board).

BACKGROUND AND PURPOSE

The purpose of the proposal is to improve public access to DSHS advisory committee, council, task force, and board rules by moving all advisory committee, council, task force, and board rules into a single chapter. The current Board rule is repealed from 25 Texas Administrative Code (TAC) Chapter 289 and a new rule is proposed in 25 TAC Chapter 3. The new rule is published elsewhere in this issue of the *Texas Register*.

FISCAL NOTE

Christy Havel Burton, Chief Financial Officer, has determined that for each year of the first five years that the rule will be in effect, enforcing or administering the rule does not have foreseeable implications relating to costs or revenues of state or local governments.

GOVERNMENT GROWTH IMPACT STATEMENT

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

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

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

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

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

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

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

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

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

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

Christy Havel Burton has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities because the rule does not apply to small or micro-businesses, or rural communities.

LOCAL EMPLOYMENT IMPACT

The proposed rule will not affect a local economy.

COSTS TO REGULATED PERSONS

Texas Government Code §2001.0045 does not apply to this rule because the rule is necessary to protect the health, safety, and welfare of the residents of Texas and does not impose a cost on regulated persons.

PUBLIC BENEFIT AND COSTS

Timothy Stevenson, Deputy Commissioner, Consumer Protection Division, has determined that has determined that for each year of the first five years the rule is in effect, the public benefit will improve access to uniformly formatted DSHS advisory committee, council, task force, and board rules located in a single chapter.

Christy Havel Burton has also determined that for the first five years the rule is in effect, there are no anticipated economic costs to persons who are required to comply with the proposed rule because the proposal does not impose requirements on private individuals or businesses.

TAKINGS IMPACT ASSESSMENT

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

PUBLIC COMMENT

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

To be considered, comments must be submitted no later than 31 days after the date of this issue of the *Texas Register*. Comments must be (1) postmarked or shipped before the last day of the comment period; (2) hand-delivered before 5:00 p.m. on the last working day of the comment period; or (3) emailed before midnight on the last day of the comment period. If the last day to submit comments falls on a holiday, comments must be postmarked, shipped, or emailed before midnight on the following business day to be accepted. When emailing comments, please indicate "Comments on Proposed Rule 26R063" in the subject line.

STATUTORY AUTHORITY

The repeal is authorized by Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services system, Texas Health and Safety Code §1001.075, which authorizes the executive commissioner of HHSC to adopt rules and policies for the operation and provision of health and human services by DSHS and for the administration of Texas Health and Safety Code Chapter 1001, Texas Health and Safety Code §401.015 through §401.019, which establishes the Texas Radiation Advisory Board and authorizes rules necessary for its operation, and Texas Government Code Chapter 2110, which governs state agency advisory committees.

The repeal affects Texas Government Code §524.0151, Chapter 1001, and Texas Health and Safety Code Chapter 1001 and §401.015 through §401.019.

§289.130. Radiation Advisory Board.

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

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TITLE 34. PUBLIC FINANCE

PART 1. COMPTROLLER OF PUBLIC ACCOUNTS

CHAPTER 3. TAX ADMINISTRATION
SUBCHAPTER O. STATE AND LOCAL SALES AND USE TAXES

34 TAC §3.330

The Comptroller of Public Accounts proposes amendments to §3.330, concerning data processing services. The amendments are required by the previous 2025 amendment to this section that included marketplace provider services in the definition of data processing services. The transaction fees charged by the marketplace providers are commissions, not data processing services. Therefore, the comptroller deletes subsection (b)(5), renumbers subsequent paragraphs accordingly, and adds new subsection (j) to reflect that platform fees are not data processing services. The "platform provider" definition in subsection (j)(1)(C) is intentionally broader than the definition of "marketplace provider" in Tax Code, §151.0242 because a platform under this subsection may facilitate the sale of an item regardless of whether the item is a taxable item.

The comptroller's interpretation in subsection (j) becomes effective on the date this amendment is adopted. Further refinement of the data processing services definition may be made in future amendments.

Tetyana Melnyk, Chief Revenue Estimator, has determined that during the first five years that the proposed amendments are in effect, the amended rule: will not create or eliminate a government program; will not require the creation or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to the agency; will not require an increase or decrease in fees paid to the agency; will not increase or decrease the number of individuals subject to the rule's applicability; and will not have significant effect on this state's economy.

Ms. Melnyk also has determined that the proposed amendments would benefit the public by reducing costs and uncertainty for businesses. This rule is proposed under Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses or rural communities. The proposed amendments would result in losses to General Revenue Fund 0001 of $17,920,000 in fiscal year 2027, $19,210,000 in fiscal year 2028, $20,550,000 in fiscal year 2029, $21,990,000 in fiscal year 2030, $23,530,000 in fiscal year 2031, and $25,180,000 in fiscal year 2032. Losses to units of local governments, including municipalities, counties, and transit authorities would be $5,180,000 in fiscal year 2027, $5,540,000 in fiscal year 2028, $5,940,000 in fiscal year 2029, $6,340,000 in fiscal year 2030, $6,800,000 in fiscal year 2031, and $7,280,000 in fiscal year 2032.

You may submit comments on the proposal or information related to the cost, benefit, or effect of the proposal, including any applicable data, research or analysis, to Robin Robinson, Associate Deputy Comptroller for Tax, P.O. Box 13528 Austin, Texas 78711 or to the email address: Robin.Robinson@cpa.texas.gov. The comptroller must receive your comments or other information no later than 30 days from the date of publication of the proposal in the *Texas Register*.

The amendments are proposed under Tax Code, §111.002 (Comptroller's Rules; Compliance; Forfeiture), which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of Tax Code, Title 2 (State Taxation).

The amendments implement Tax Code, §151.0101 (Taxable Services).

§3.330. Data Processing Services.

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

(1) Data processing service--the computerized entry, retrieval, search, compilation, manipulation, or storage of data or information.

(A) Data processing service includes:

(i) word processing;

(ii) payroll and business accounting data production;

(iii) the performance of a totalizator service with the use of computational equipment required by Occupations Code, Subtitle A-1, Title 13, (Texas Racing Act); and

(iv) the use of a computer or computer time for data processing whether the processing is performed by the provider of the computer or computer time or by the purchaser or other beneficiary of the service.

(B) Data processing services do not include:

(i) Internet access service as defined by Tax Code, §151.00394 (Internet access service);

(ii) the transcription of medical dictation by a medical transcriptionist;

(iii) the display of a classified advertisement, banner advertisement, vertical advertisement, or link on an Internet website owned by another person;

(iv) services exclusively to encrypt electronic payment information for acceptance onto a payment card network that allows a person to accept a specific brand of debit or credit card by routing information and data to settle an electronic payment transaction, to comply with standards set by the Payment Card Industry Security Standards Council; or

(v) settling of an electronic payment transaction by:

(I) a downstream payment processor or point of sale payment processor or point of sale payment processor that routes electronic payment information to an entity described in subclause (II) or (III) of this clause;

(II) a federally insured financial institution, as defined by Finance Code, §201.101 (Definitions), that is organized under the laws of Texas, another state, or the United States, or an affiliate of the institution;

(III) a payment card network that allows a person to accept a specific brand of debit or credit card by routing information and data to settle an electronic payment transaction;

(IV) a person who has entered into a sponsorship agreement with an entity described in subclause (II) of this clause for the purpose of processing that entity's electronic payment transactions through a payment card network; or

(V) a person who is engaged in the business of money transmission and required to obtain a license under Finance Code, §152.101 (Money Transmission License Required).

(C) Under its exclusive jurisdiction to interpret taxable services, the comptroller excludes from the definition of "data processing service," data processing that is sold for a single charge with another service if the data processing service does not have a separate value, and the data processing service is ancillary to the other service. The burden is on the taxpayer to demonstrate that the data processing service does not have a separate value and is ancillary to the other service.

(i) If the data processing service is sold for a single charge with another service that does not have a separate value, and the other service is ancillary to the data processing service, the entire charge will be taxable as a data processing service.

(ii) If the data processing service is sold for a single charge with another service that has a separate value, subsection (e) of this section applies.

(iii) In determining whether the data processing service and the other service have separate values, the comptroller will consider whether the services are distinct and identifiable and whether each service is of a type that is commonly provided on a stand-alone basis or commonly provided as an additional service for a greater single charge.

(iv) In determining whether the data processing service is ancillary to another service, or conversely, whether the other service is ancillary to the data processing service, the comptroller may consider the extent to which the service provider exercises discretion or judgment in individual applications of the processed data based on knowledge of the physical sciences, accounting principles, law, or other fields of study. The routine or repetitive manipulation of data by the seller is a factor suggesting that the data processing activity is not ancillary to another service and should be taxable as a data processing service. The manipulation of data that depends on the external knowledge and discretionary judgment of the service provider in individual applications suggests that the data processing activity is ancillary to another service and should not be taxable as a data processing service. The provider's skill, experience, or expertise, in processing data or information is not a factor. Other factors may be considered, and the weight of the factors may vary from case to case. The evaluation is based on what the service provider is doing, not on what the customer wants.

(2) Downstream payment processor--A payment processor that acts as an intermediary between a consumer-facing entity that has incurred an outstanding money transmission obligation to a consumer, and the consumer's designated recipient.

(3) Point of sale payment processor--A payment processor that receives funds from a consumer on behalf of a consumer-facing entity that either sells goods or services other than money services or accepts charitable donations.

(4) Settling of an electronic payment transaction--The authorization, clearing, or funding of a payment made by credit card, debit

card, gift card, stored value card, electronic check, virtual currency, loyalty program currency such as points or miles, or a similar method. The term does not include charges by a marketplace provider, as that term is defined by Tax Code, §151.0242 (Marketplace Providers and Marketplace Sellers).

(b) Examples of services that are and are not taxable data processing services.

(1) Payroll services, such as maintaining records of employee work time, computing and preparing payroll checks, filing payroll tax returns, and completing pre-printed employee-related forms such as W-2s, are taxable data processing services because they involve the routine and repeated simultaneous application of the same process to different data. The service provider's skill, experience, or expertise with payroll documents is not determinative.

(2) The production of business accounting data, such as inventory reports, is a taxable data processing service because it involves the routine and repeated simultaneous application of the same process to different data. The service provider's skill, experience, or expertise with business reports is not determinative.

(3) The preparation of financial statements kept in accordance with generally accepted accounting principles, is not a taxable data processing service, even though it has elements of data processing, because the categorization and characterization of the data is variable and depends upon the discretion and certified opinion of an accounting professional. For example, the use of a computer by a certified accounting firm, enrolled agent, or bookkeeping firm to produce a financial report or to prepare federal income tax or state franchise or sales tax returns is not taxable data processing services.

(4) The insertion of data into form title or loan documents for a client is taxable data processing because it involves the repeated application of the same process to different data. The service provider's skill or experience with title or loan documents is not determinative. The preparation of a title opinion is not included in taxable data processing, even though it has elements of data processing, because the result is solitary and depends upon the opinion or skills of a legal professional.

[~~(5) Effective October 1, 2025, marketplace provider services may be included in taxable data processing services when they involve the computerized entry, retrieval, search, compilation, manipulation, or storage of data or information provided by the purchaser or the purchaser's designee. For example, services provided by a marketplace provider to its marketplace seller that store product listings and photographs, maintain records of transactions, and compile analytics are taxable data processing services.~~]

(5) [~~(6)~~] Internet hosting, as defined by Tax Code, §151.108 (Internet Hosting), is a taxable data processing service when the user stores data on the service provider's hardware, or processes data on software that is owned, licensed, or leased by the user or provider. An example is the provision of servers and operating systems that are used by a customer to store software applications and content that can be accessed by the customer's customers.

(6) [~~(7)~~] Streaming video subscriptions are taxable as a cable television service but not as data processing services. See also §3.313 of this title (relating to Cable Television Service and Bundle Cable Service).

(7) [~~(8)~~] Streaming video game subscriptions are taxable as an amusement service but not as data processing services. See also §3.298 of this title (relating to Amusement Services).

(8) [~~(9)~~] The compilation of information that the service provider acquires from unrelated third parties through nontaxable opinion polls and surveys as described by §3.342 of this title (relating to Information Services) is not a taxable data processing service if the data processing is ancillary to the main service of data acquisition and the data processing does not have a separate value. However, if the service provider acquires and compiles data from the customer or the customer's designees, and the service provider's expertise is in managing the data, such as in inventory management, the main service is data processing and the service is taxable.

(9) [~~(10)~~] The compilation of nontaxable information primarily derived from the service provider's laboratory, medical, or exploratory testing or experimentation or any similar method of direct scientific observation of physical phenomena as described by §3.342 of this title (relating to Information Services) is not a taxable data processing service if the data processing is ancillary to the main service and the data processing does not have a separate value. Examples may be geophysical surveys, polygraph tests, and the recording and tracking of vital signs in medical treatment.

(10) [~~(11)~~] Data migration services that transfer data from one storage device to another storage device is taxable data processing.

(11) [~~(12)~~] Website creation, repair, and maintenance are taxable data processing services when they involve the storage, manipulation, compilation, and entry of data. However, simply developing a blueprint or plan for a website is not data processing services.

(c) Imposition of tax, permits.

(1) State sales and use tax and any applicable local sales and use tax are imposed on each sale or use of a data processing service in Texas.

(2) Except for small remote sellers described in §3.286(b)(2)(B) of this title (relating to Seller's and Purchaser's Responsibilities), a seller of data processing services must obtain a Texas sales and use tax permit and collect and remit tax on charges for data processing services, or accept properly completed resale, exemption, or direct pay permit certificates in lieu of collecting tax. See §3.285 of this title (relating to Resale Certificate; Sales for Resale); §3.287 of this title (relating to Exemption Certificates); §3.288 of this title (relating to Direct Payment Procedures and Qualifications).

(3) A charge for data processing services is taxable regardless of the ownership of the computer or whether the data is provided by the customer or the customer's authorized designee.

(4) Twenty percent of the total amount charged for data processing services is exempted from tax. If the data processing service is also taxable as another type of taxable service other than an information service, the twenty percent exemption does not apply.

(d) Resale certificates.

(1) Providers of data processing services may issue a resale certificate in lieu of tax to suppliers of tangible personal property only if care, custody, and control of the property is transferred to the client. For example, a service provider purchases a Universal Serial Bus (USB) drive to transfer the results of data processing services to customers. The USB drive is transferred to the customer, and the customer owns and uses the USB drive to review the results of the data processing service. The service provider may purchase the USB drive tax free by issuing a resale certificate. Tax is due on the total amount charged the customer, including amounts for the USB drive and for the services.

(2) A resale certificate may be issued for a service if the buyer intends to transfer the service as an integral part of taxable services. A service will be considered an integral part of a taxable service

if the service purchased is essential to the performance of the taxable service and without which the taxable service could not be rendered.

(3) A resale certificate may be issued for a taxable service if the buyer intends to incorporate the service into tangible personal property which will be resold. If the entire service is not incorporated into the tangible personal property, it will be presumed the service is subject to tax and the service will only be exempt to the extent the buyer can establish the portion of the service actually incorporated into the tangible personal property. If the buyer does not intend to incorporate the entire service into the tangible personal property, no resale certificate may be issued, but credit may be claimed at the time of sale of the tangible personal property to the extent the service was actually incorporated into the tangible personal property.

(e) Nontaxable related services.

(1) A service will be considered as a nontaxable related service if:

(A) it is neither a data processing service, nor a service taxed under other provisions of the Tax Code, Chapter 151;

(B) each of the services provided are of a type which are commonly provided on a stand-alone basis; and

(C) the performance of the service is distinct and identifiable. Examples of such a service would be consultation, development of and preparation of feasibility studies, design and development, or training.

(2) Where nontaxable related services and taxable services are sold or purchased for a single charge and the portion relating to taxable services represents more than 5.0% of the total charge, the total charge is presumed to be taxable. The presumption may be overcome by the data processing service provider at the time the transaction occurs by separately stating to the customer a reasonable charge for the taxable services. However, if the charge for the taxable portion of the services is not separately stated at the time of the transaction, the service provider or the purchaser may later establish for the comptroller, through documentary evidence, the percentage of the total charge that relates to nontaxable related services. The service provider's books must support the apportionment between exempt and nonexempt activities based on the cost of providing the service or on a comparison to the normal charge for each service when provided alone. If the charge for exempt services is unreasonable when the overall transaction is reviewed considering the cost of providing the service or a comparable charge made in the industry for each service, the comptroller will adjust the charges and assess additional tax, penalty, and interest on the taxable services.

(3) Charges for services or expenses directly related to and incurred while providing the taxable service are taxable and may not be separated for the purpose of excluding these charges from the tax base. Examples would be charges for meals, telephone calls, hotel rooms, or airplane tickets.

(f) If both the data processing service provider and the customer are located in Texas, Texas tax is due.

(g) Determining the incidence of the tax.

(1) With respect to a taxable service, "use" means the derivation in Texas of direct or indirect benefit from the service.

(2) The sale of a data processing service that is delivered in Texas is presumed to be a sale for storage, use, or consumption in Texas until the contrary is established.

(3) A data processing service performed in Texas is subject to Texas sales tax unless an exemption applies.

(A) A data processing service performed in Texas for use entirely outside of Texas is exempt from sales tax.

(B) A data processing service performed in Texas for use both within and outside of Texas is exempt to the extent that the service is used outside Texas.

(4) A data processing service performed outside of Texas is subject to Texas use tax to the extent that the service is for use in Texas, unless an exemption applies.

(5) A purchaser of a data processing service performed outside of Texas for use in Texas may claim a credit for a similar tax paid in another state if that state provides a similar credit for a taxpayer in Texas.

(6) A purchaser asserting the use of a data processing service at its business locations in multiple states may issue to the service provider a form promulgated by the comptroller, or a substantially similar document that asserts the purchaser's concurrent multistate business use and represents that the purchaser will report and pay the state and local tax on the portion that is taxable and is not exempt.

(A) The multistate purchaser may use a reasonable and consistent method supported by its business records to allocate the service between its business locations.

(B) A service provider that accepts a multistate use certificate in good faith is relieved of responsibility for collecting and remitting Texas state and local sales and use taxes on transactions subject to the certificate.

(h) Local taxes.

(1) Local sales tax is due in a local jurisdiction where the sale is consummated. The sale may be consummated at a place of business of the seller where the order is received, a place of business of the seller where the order is fulfilled, or at the location to which the service is delivered. See §3.334 of this title (relating to Local Sales and Use Taxes).

(2) Local use tax may also be due in a local jurisdiction where a direct or indirect benefit from the service is derived if the 2.0% local tax cap has not been exceeded. See also §3.334 of this title.

(3) An in-state customer purchasing data processing services for the benefit of locations in more than one local taxing entity is responsible for issuing to the data processing service provider an exemption certificate claiming a multi-city benefit and for determining the extent of benefit for each entity. The local use tax for each entity must be reported, allocated, and paid by the customer. A data processing service provider that accepts in good faith an exemption certificate claiming a multi-city benefit is relieved of responsibility for collecting and remitting local tax on transactions to which the certificate relates.

(i) Use tax. The customer is responsible to report and pay use tax if the service provider:

(1) is not required to collect and remit the sales or use tax; or

(2) does not collect the correct amount of sales or use tax.

(j) Platforms and Platform Provider facilitation fees.

(1) In this section:

(A) "Item" means tangible personal property or a service, without regard to whether the service is a taxable service under Tax Code, §151.0101, and without regard to whether the sale, lease, or rental of the property or service is taxed under Tax Code, Chapter 151 or any other chapter of the Tax Code.

(B) "Platform" means an electronic medium through which a person other than the owner or operator of the medium sells an item to a customer. The term includes an Internet website or software application. The term also includes a medium operated by a person that has been granted an exception under §3.286(b)(3)(G) of this title.

(C) "Platform Provider" means a person who owns or operates a platform and directly or indirectly processes sales or payments for platform sellers.

(D) "Platform Seller" means a seller, other than the platform provider, who sells an item through the platform.

(2) A fee, commission, or other charge imposed by a platform provider, upon a platform seller for listing, offering, or facilitating sales through the platform, is not a taxable data processing service or a taxable information service under §3.342 of this title (relating to Information Services). This paragraph applies without regard to how the charge is calculated, whether a sale occurs, or whether the charge is collected directly or netted against amounts owed to the platform seller.

(3) Examples of industries this subsection applies to include, but are not limited to:

(A) online platforms and applications through which platform sellers offer items for sale, rent, or lease;

(B) prepared food or grocery delivery;

(C) short-term lodging;

(D) ride-hailing or other transportation services;

(E) vehicle rental or sharing;

(F) pet care or pet-sitting services;

(G) household, personal, or errand-running services;

(H) freelance, gig, or professional services platforms;

(I) tool, equipment, or gear rental platforms; and

(J) parking or storage space rental platforms.

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

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Chris Blackwell
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Comptroller of Public Accounts
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TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 7. TEXAS COMMISSION ON LAW ENFORCEMENT

CHAPTER 211. ADMINISTRATION

37 TAC §211.16

The Texas Commission on Law Enforcement (Commission) proposes amended 37 Texas Administrative Code §211.16, Establishment or Continued Operation of an Appointing Entity. This proposed amended rule would require a law enforcement agency to adopt a policy on polygraph examiners used by the agency for certain types of polygraph examinations, as suggested by the Law Enforcement Polygraph Examinations Advisory Committee.

Mr. John P. Beauchamp, General Counsel, has determined that for each year of the first five years this proposed amended rule will be in effect, there will be no foreseeable fiscal implications to state or local governments as a result of enforcing or administering the proposed rule.

Mr. Beauchamp has determined that for each year of the first five years this proposed amended rule will be in effect, there will be a positive benefit to the public by conforming with Texas Occupations Code §1701.318. There will be no anticipated economic costs to persons required to comply with the proposed rule.

Mr. Beauchamp has determined that for each year of the first five years this proposed amended rule will be in effect, there will be no adverse economic effects to small businesses, microbusinesses, or rural communities as a result of implementing the proposed rule.

Mr. Beauchamp has determined that for each year of the first five years this proposed amended rule will be in effect, there will be no effects to a local economy as a result of implementing the proposed rule.

Mr. Beauchamp has determined the following:

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

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

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

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

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

(6) the proposed rule does not limit or repeal an existing regulation, but does expand an existing regulation by requiring the adoption by a law enforcement agency of a policy on polygraph examinations;

(7) the proposed rule does not increase or decrease the number of individuals subject to the rule's applicability; and

(8) the proposed rule does not positively or adversely affect this state's economy.

The Commission is requesting comments regarding the proposed amended rule and information related to the cost, benefit, or effect of the proposed amended rule, including any applicable data, research, or analysis, from any person required to comply with the proposed amended rule or any other interested person. The comment period will last 30 days following the publication of this proposal in the *Texas Register*. Comments and information may be submitted electronically to public.comment@tcole.texas.gov or in writing to Mr. John P. Beauchamp, General Counsel, Texas Commission on Law Enforcement, 6330 E. Highway 290, Suite 200, Austin, Texas 78723-1035.

The amended rule is proposed pursuant to Texas Occupations Code §1701.151, General Powers of Commission; Rulemaking

Authority, and Texas Occupations Code §1701.318, Certification Required for Peace Officers to Conduct Polygraph Examinations. Texas Occupations Code §1701.151 authorizes the Commission to adopt rules for the administration of Occupations Code Chapter 1701. Texas Occupations Code §1701.318 requires the Commission to adopt rules prohibiting a peace officer from conducting certain polygraph examinations unless they have completed Commission-approved training and allows the Commission to establish minimum requirements for the training, testing, and certification of peace officers to conduct certain polygraph examinations.

The amended rule as proposed affects or implements Texas Occupations Code §1701.151, General Powers of Commission; Rulemaking Authority, and Texas Occupations Code §1701.318, Certification Required for Peace Officers to Conduct Polygraph Examinations. No other code, article, or statute is affected by this proposal.

§211.16. Establishment or Continued Operation of an Appointing Entity.

(a) To establish that an agency or a prospective agency meets the minimum standards for the creation or continued operation of a law enforcement agency, the agency must provide evidence that the agency:

(1) provides public benefit to the community;

(2) has sustainable funding sources that meet or exceed the continued operating expenses outlined in a line-item budget for the agency;

(3) has physical resources available to officers, including:

(A) at least one firearm per officer on duty;

(B) at least one less lethal force weapon per officer on duty;

(C) effective communications equipment, specifically:

(i) at least one radio communication device per officer on duty performing patrol, courtroom security, traffic enforcement, responding to calls for service, assigned to a controlled access point, acting as a visual deterrent to crime, surveillance, warrant execution, and service of civil process; and

(ii) at least one radio communication device or cell phone device for any other officer on duty who may have contact with the general public;

(D) at least one bullet-resistant vest per officer on duty with vest panels that:

(i) have been certified as compliant by the National Institute of Justice (NIJ);

(ii) are within the ballistic performance warranty period listed by the manufacturer on the affixed tags; and

(iii) have never been shot or otherwise compromised;

(E) access to at least one breaching tool and one ballistic shield;

(F) for agencies with primary jurisdiction over a school district or open-enrollment charter school, one breaching tool and one ballistic shield available at each campus;

(G) at least one uniform per officer whose duties include any of the following:

(i) performing patrol;

(ii) courtroom security;

(iii) traffic enforcement;

(iv) responding to calls for service;

(v) assigned to a controlled access point;

(vi) acting as a visual deterrent to crime;

(vii) warrant execution; or

(viii) service of civil process;

(H) at least one motor vehicle owned and insured by an agency created on or after June 1, 2024; and

(I) patrol vehicles provided to officers whose duties include either performing patrol, traffic enforcement, or responding to calls for service that:

(i) are owned, insured, and equipped by the agency; or

(ii) may be personally owned for agencies in existence before June 1, 2024, that have not provided agency-owned patrol vehicles from June 1, 2024, to the present;

(4) has physical facilities, including:

(A) an evidence room or other acceptable secure evidence storage for officers whose duties include any of the following:

(i) performing patrol;

(ii) traffic enforcement;

(iii) criminal investigations;

(iv) responding to calls for service; or

(v) executing search or arrest warrants;

(B) a dispatch area for any agency appointing and employing telecommunicators; and

(C) a public area including written notices posted and visible 24 hours a day explaining:

(i) how to receive the most immediate assistance in an emergency;

(ii) how to make a nonemergency report of a crime; and

(iii) how to make a compliment or complaint on a member of the agency by mail, online, or by phone;

(5) has policies, including policies on:

(A) use of force;

(B) vehicle pursuit;

(C) professional conduct of officers;

(D) domestic abuse protocols;

(E) response to missing persons;

(F) supervision of part-time officers;

(G) impartial policing;

(H) medical and psychological examination of licensees;

(I) active shooters, including a detailed written policy based on current best practices for responding to an active shooter incident at a primary or secondary school facility and a recommendation

for the frequency at which simulated emergency drills should be conducted;

(J) barricaded subjects;

(K) evidence collection and handling;

(L) eyewitness identification;

(M) misconduct investigations;

(N) hiring a license holder;

(O) personnel files;

(P) uniform and dress code;

(Q) training required to maintain licensure; [~~and~~]

(R) outside and off-duty employment; and

(S) polygraph examiners;

(6) has an assigned public information officer who must hold a valid public information officer certificate or must obtain the certificate within the first year of assignment, if the agency is:

(A) a municipal police department;

(B) a sheriff's office;

(C) a county constable's office;

(D) a school district police department; or

(E) the Texas Department of Public Safety;

(7) has an established administrative structure, including:

(A) an organizational chart for the agency that illustrates the division and assignment of licensed and unlicensed personnel;

(B) a projection for the number of full-time peace officers, part-time peace officers, and reserve law enforcement officers that the agency would employ during the year if at full staffing; and

(C) the number of School Resource Officer (SRO) positions employed by the agency and working in schools if the agency is not an independent school district (ISD) police department;

(8) has liability insurance for the agency and any vehicles used for agency purposes;

(9) has a defined process by which the agency will receive by mail, online, and by phone and document compliments and complaints on its employees; and

(10) any other information the commission requires.

(b) An entity applying to create a law enforcement agency is presumed to provide public benefit to the community if any of the following conditions are satisfied:

(1) the agency's chief administrator is an officer elected under the Texas Constitution;

(2) the agency is required by statute;

(3) the agency serves a municipality that contains a population of at least 10,000 people and the municipality is without an agency;

(4) the agency consists of investigators for a county or district attorney's office; or

(5) the agency serves a school district, open-enrollment charter school, private school, state institution of higher education, public technical institute, or private institution of higher education with an enrollment of at least 2,500 students.

(c) An entity applying to create a law enforcement agency may be found to provide public benefit to the community based upon a balance of the following factors:

(1) the unmet law enforcement needs of the subject community;

(2) a consideration of the presence of other agencies within the subject community, including but not limited to:

(A) the number and types of agencies that serve the community;

(B) the consistency of jurisdictional coverage to be provided;

(C) the unique law enforcement needs to be provided that are not already provided by another agency; and

(D) the ability of other agencies to provide the desired law enforcement services to the community through agreements or contracts;

(3) the desired law enforcement functions, roles, and responsibilities of the prospective agency within the subject community;

(4) a comparison of establishing an agency versus other options to address the desired law enforcement needs;

(5) the ability to provide continuity of law enforcement services;

(6) the provision of full-time versus part-time coverage;

(7) the staffing to be achieved by full-time, part-time, or reserve law enforcement officers;

(8) the ability to recruit and retain qualified licensees for appointment;

(9) the ability to recruit or retain a chief administrator;

(10) the ability to supervise, train, and develop licensees;

(11) the ability to fulfill administrative obligations required by law, including but not limited to:

(A) training compliance;

(B) maintaining required records in compliance with applicable laws;

(C) reporting compliance;

(D) appointment and separation processes;

(E) investigating and resolving allegations of misconduct; and

(F) policy development, implementation, and compliance;

(12) access to legal support and other supportive resources;

(13) oversight and support to be provided by the governing body;

(14) prior agency and governing body history with the commission; and

(15) any other factor the commission considers relevant.

(d) A law enforcement agency may be found to no longer provide public benefit to the community based upon a balance of the following factors:

(1) the relevant factors contained in subsection (c) of this section;

(2) the turnover rate of agency staff;

(3) the history and seriousness of the agency's audit and inspection deficiencies and violations;

(4) the history and seriousness of administrative and criminal misconduct of the agency's appointees;

(5) neglect of the agency's duties;

(6) lack of oversight or abuse by the agency's governing body;

(7) involvement in activities not related to the statutory purpose for the type of agency; and

(8) any other factor the commission considers relevant.

(e) An entity authorized by law to establish a law enforcement agency and appoint licensees must first complete training offered and required by the commission on the creation and continued operation of a new agency before applying to create a new law enforcement agency. This training consists of:

(1) an introduction to the new agency creation process that outlines the objectives, process, and timelines for creating a new agency;

(2) review and completion of the new agency workbook, including the gathering of required information and completion of required worksheets; and

(3) an in-person commission staff working group.

(f) After completing the required training, the entity may then submit the initial application for the creation of a new law enforcement agency by:

(1) submitting the current agency number application form;

(2) demonstrating that the prospective new agency would provide public benefit to the community and has sustainable funding sources; and

(3) outlining the prospective agency plan.

(g) If the executive director denies the initial application, the entity may appeal to the commissioners during a public meeting of the commission. If the commissioners approve the initial application, the entity may submit the final application demonstrating all requirements of subsection (a) of this section have been met.

(h) If the executive director approves the initial application, the entity may submit the final application demonstrating all requirements of subsection (a) of this section have been met.

(i) After submission of the final application, the commission will perform an inspection to confirm that the prospective agency meets the minimum standards for the creation of a law enforcement agency. If the minimum standards are met, a new law enforcement agency will be created.

(j) A denial of the initial or final application may include conditions which must be satisfied before an entity may reapply to create a new law enforcement agency.

(k) A law enforcement agency that no longer meets the minimum standards for the continued operation of an agency may be deactivated. Deactivation of an agency requires the separation of all licensees, including the chief administrator, and the revocation of the authority to appoint licensees.

(l) The governing body of an agency that has been deactivated must continue to maintain records required by the commission as prescribed by law and must report motor vehicle stop data for all years and partial years that elapsed prior to deactivation.

(m) An entity authorized by Local Government Code, §361.022 to operate a correctional facility to house inmates, in this state, convicted of offenses committed against the laws of another state of the United States, and appoint jailers requiring licensure by the commission, may make application for an agency number by submitting the current agency number application form, any associated application fee, and a certified copy of the contract under which the facility will operate.

(n) A political subdivision wanting to establish a consolidated emergency telecommunications center and appoint telecommunicators, as required by Texas Occupations Code, §1701.405, may make application for an agency number by submitting the current agency number application form, any associated application fee and a certified copy of the consolidation contract.

(o) The Texas Department of Criminal Justice - Pardon and Parole Division, a community supervision and corrections department, or a juvenile probation department may make application for an agency number if seeking firearms training certificates for parole officers, community supervision and corrections officers, or juvenile probation officers by submitting the current agency number application form and any associated application fee.

(p) All law enforcement agencies must complete and submit an annual report due between January 1st and March 1st of each year documenting their continued compliance with the requirements of this rule.

(q) The effective date of this section is January 1, 2027 [~~September 1, 2026~~].

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

Filed with the Office of the Secretary of State on October 5, 2026.

TRD-202604231
Gregory Stevens
Executive Director
Texas Commission on Law Enforcement
Earliest possible date of adoption: November 15, 2026
For further information, please call: (512) 936-7700



37 TAC §211.29

The Texas Commission on Law Enforcement (Commission) proposes amended 37 Texas Administrative Code §211.29, Responsibilities of Agency Chief Administrators. This proposed amended rule would prohibit a law enforcement agency from using a person who does not have a law enforcement polygraph certificate to conduct a polygraph examination for a pre-appointment screening or from using a peace officer who does not have a law enforcement polygraph certificate to conduct a polygraph examination for a criminal investigation. This conforms with the requirements in Texas Occupations Code § 1701.318 made by Senate Bill 2180 (89R) and is recommended by the Law Enforcement Polygraph Examinations Advisory Committee.

Mr. John P. Beauchamp, General Counsel, has determined that for each year of the first five years this proposed amended rule

will be in effect, there will be no foreseeable fiscal implications to state or local governments as a result of enforcing or administering the proposed rule.

Mr. Beauchamp has determined that for each year of the first five years this proposed amended rule will be in effect, there will be a positive benefit to the public by conforming with Texas Occupations Code §1701.318. There will be no anticipated economic costs to persons required to comply with the proposed rule.

Mr. Beauchamp has determined that for each year of the first five years this proposed amended rule will be in effect, there will be no adverse economic effects to small businesses, microbusinesses, or rural communities as a result of implementing the proposed rule.

Mr. Beauchamp has determined that for each year of the first five years this proposed amended rule will be in effect, there will be no effects to a local economy as a result of implementing the proposed rule.

Mr. Beauchamp has determined the following:

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

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

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

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

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

(6) the proposed rule does not limit or repeal an existing regulation, but does expand an existing regulation by prohibiting a law enforcement agency from using a person who is not a peace officer and who does not have a law enforcement polygraph certificate to conduct a polygraph examination for a pre-appointment screening;

(7) the proposed rule does not increase or decrease the number of individuals subject to the rule's applicability; and

(8) the proposed rule does not positively or adversely affect this state's economy.

The Commission is requesting comments regarding the proposed amended rule and information related to the cost, benefit, or effect of the proposed amended rule, including any applicable data, research, or analysis, from any person required to comply with the proposed amended rule or any other interested person. The comment period will last 30 days following the publication of this proposal in the *Texas Register*. Comments and information may be submitted electronically to public.comment@tcole.texas.gov or in writing to Mr. John P. Beauchamp, General Counsel, Texas Commission on Law Enforcement, 6330 E. Highway 290, Suite 200, Austin, Texas 78723-1035.

The amended rule is proposed pursuant to Texas Occupations Code §1701.151, General Powers of Commission; Rulemaking Authority, and Texas Occupations Code §1701.318, Certification Required for Peace Officers to Conduct Polygraph Examinations. Texas Occupations Code §1701.151 authorizes the Commission to adopt rules for the administration of Occupations Code Chapter 1701. Texas Occupations Code §1701.318 requires the Commission to adopt rules prohibiting a peace officer from conducting certain polygraph examinations unless they have completed Commission-approved training and allows the Commission to establish minimum requirements for the training, testing, and certification of peace officers to conduct certain polygraph examinations.

The amended rule as proposed affects or implements Texas Occupations Code §1701.151, General Powers of Commission; Rulemaking Authority, and Texas Occupations Code §1701.318, Certification Required for Peace Officers to Conduct Polygraph Examinations. No other code, article, or statute is affected by this proposal.

§211.29. Responsibilities of Agency Chief Administrators.

(a) An agency chief administrator is responsible for making any and all reports and submitting any and all documents required of that agency by the commission.

(b) An individual who is appointed or elected to the position of the chief administrator of a law enforcement agency shall notify the Commission of the date of appointment and title, through a form prescribed by the Commission within 30 days of such appointment.

(c) An agency chief administrator must comply with the appointment and retention requirements under Texas Occupations Code, Chapter 1701.

(d) An agency chief administrator must report to the commission within 30 days, any change in the agency's name, physical location, mailing address, electronic mail address, or telephone number.

(e) An agency chief administrator must report, in a standard format, incident-based data compiled in accordance with Texas Occupations Code §1701.164.

(f) For purposes of this subsection, an active shooter incident is an incident involving one or more individuals actively engaged in killing or attempting to kill people in a populated area. Following a response to an active shooter incident at a primary or secondary school facility by any member of a law enforcement agency, the agency chief administrator must submit to the commission on a form prescribed by the commission:

(1) a preliminary report on an evaluation of the agency's response to the incident within 45 days of the incident, or as soon as practicable thereafter; and

(2) a final report on an evaluation of the agency's response to the incident within 90 days of the incident, or as soon as practicable thereafter.

(g) Line of duty deaths shall be reported to the commission in current peace officers' memorial reporting formats.

(h) An agency chief administrator must report to the commission on a form prescribed by the commission within seven days of discovery by any member of the agency that one of the following does not currently meet or did not meet the minimum standards for enrollment or initial licensure at the time of application, enrollment, or appointment:

(1) a licensee applying for enrollment or appointment with the agency;

(2) a person enrolled in the agency's academy;

(3) a person enrolled in any academy and sponsored by the agency; or

(4) a licensee appointed with the agency.

(i) An agency chief administrator has an obligation to determine that all appointees are able to safely and effectively perform the essential job functions. An agency chief administrator may require a fit for duty review upon identifying factors that indicate an appointee may no longer be able to perform job-related functions safely and effectively. These factors should be based on objective evidence and a reasonable basis that the cause may be attributable to a medical or psychological condition or impairment.

(j) An agency chief administrator shall notify the commission of any failed medical (L-2) or psychological (L-3) examination within 30 days on a form prescribed by the commission. An agency chief administrator shall notify the commission upon a final determination of a failed fit-for-duty examination (FFDE) or drug screen within 30 days on a form prescribed by the commission.

(k) An agency must provide training on employment issues identified in Texas Occupations Code §1701.402 and field training. If successfully completed, the agency must report these trainings to the commission within 30 days.

(l) An agency must provide continuing education training required in Texas Occupations Code §1701.351 and §1701.352.

(m) Before an agency appoints any licensee to a position requiring a commission license it shall complete the reporting requirements of Texas Occupations Code §1701.451.

(n) An agency appointing a person who does not hold a commission license must file an application for the appropriate license with the commission.

(o) An agency must notify the commission electronically following the requirements of Texas Occupations Code §1701.452, when a person under appointment with that agency resigns or is terminated.

(p) An agency chief administrator must comply with orders from the commission regarding the correction of a report of resignation/termination or request a hearing from SOAH.

(q) An agency chief administrator must:

(1) at the time the agency becomes aware of an allegation of misconduct, as defined in the model policy required by Texas Occupations Code § 1701.4522(a)(1), that may result in suspension, demotion, or termination, initiate an appropriate administrative or criminal investigation into alleged misconduct of a licensee who was appointed by the law enforcement agency at the time the alleged misconduct occurred;

(2) ensure completion of the investigation into alleged misconduct in a timely manner consistent with the law enforcement agency's policies even if the licensee has separated from the law enforcement agency;

(3) submit a report of a completed investigation into alleged criminal misconduct for which criminal charges are filed against a licensee to the commission within 30 days after the investigation is completed on a form prescribed by the commission;

(4) submit a report of a completed investigation into alleged administrative misconduct to the commission in a timely manner, but not later than 30 days after the licensee's separation from the law enforcement agency, on a form prescribed by the commission;

(5) if the investigative findings or disciplinary action taken are appealed, notify the commission that the matter is under appeal and notify the commission of the disposition of an appeal within 30 days after receipt of the decision; and

(6) include documentation of the completed investigation in the licensee's personnel or department file, as appropriate.

(r) An agency chief administrator must:

(1) maintain a personnel file and department file for each licensee appointed with the law enforcement agency;

(2) submit to the commission a complete copy of the personnel file of a licensee within 30 days after separation of the licensee from the law enforcement agency in a manner prescribed by the commission; and

(3) submit to the commission a complete copy of the personnel file and department file of a licensee upon request as part of an ongoing investigation relating to the licensee.

(s) An agency chief administrator may not allow a person who does not hold a law enforcement polygraph certificate to conduct a pre-appointment polygraph examination of a candidate applying for a position that requires a commission license. An agency chief administrator may not allow a peace officer who does not hold a law enforcement polygraph certificate to conduct polygraph examinations for a criminal investigation done by the agency.

(t) [~~(s)~~] Except in the case of a commission error, an agency that wishes to report a change to any information within commission files about a licensee shall do so in a request to the commission, containing:

(1) the licensees name, date of birth, last four digits of the social security number, or PID;

(2) the requested change; and

(3) the reason for the change.

(u) [~~(t)~~] An agency chief administrator may not appoint an applicant subject to pending administrative action based on:

(1) enrollment or licensure ineligibility; or

(2) statutory suspension or revocation.

(v) [~~(u)~~] The effective date of this section is January 1, 2027 [~~September 1, 2026~~].

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

Filed with the Office of the Secretary of State on October 5, 2026.

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Gregory Stevens
Executive Director
Texas Commission on Law Enforcement
Earliest possible date of adoption: November 15, 2026
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CHAPTER 217. ENROLLMENT, LICENSING, APPOINTMENT, AND SEPARATION

37 TAC §217.1

The Texas Commission on Law Enforcement (Commission) proposes amended 37 Texas Administrative Code §217.1, Minimum Standards for Enrollment and Initial Licensure. This proposed amended rule is part of the proposed reorganization and clarification of Chapter 217, concerning Enrollment, Licensing, Ap-

pointment, and Separation. It would remove outdated enrollment, licensing, and appointment language, would move enrollment and appointment processes to other relevant rules, and would clarify the language of this rule. The proposed new rule would also incorporate current Commission practices, including the requirement of the supplemental peace officer course and any other required training for out-of-state reciprocity. Some of these proposed changes were recommended by the Texas Regulatory Efficiency Office within the Office of the Governor.

Mr. John P. Beauchamp, General Counsel, has determined that for each year of the first five years this proposed amended rule will be in effect, there will be no foreseeable fiscal implications to state or local governments as a result of enforcing or administering the proposed rule.

Mr. Beauchamp has determined that for each year of the first five years this proposed amended rule will be in effect, there will be a positive benefit to the public by reorganizing and clarifying Chapter 217 for ease of understanding. There will be no anticipated economic costs to persons required to comply with the proposed rule.

Mr. Beauchamp has determined that for each year of the first five years this proposed amended rule will be in effect, there will be no adverse economic effects to small businesses, microbusinesses, or rural communities as a result of implementing the proposed rule.

Mr. Beauchamp has determined that for each year of the first five years this proposed amended rule will be in effect, there will be no effects to a local economy as a result of implementing the proposed rule.

Mr. Beauchamp has determined the following:

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

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

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

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

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

(6) the proposed rule does not expand, limit, or repeal an existing regulation;

(7) the proposed rule does not increase or decrease the number of individuals subject to the rule's applicability; and

(8) the proposed rule does not positively or adversely affect this state's economy.

The Commission is requesting comments regarding the proposed amended rule and information related to the cost, benefit, or effect of the proposed amended rule, including any applicable data, research, or analysis, from any person required to comply with the proposed amended rule or any other interested person. The comment period will last 30 days following the publication of this proposal in the *Texas Register*. Comments and information may be submitted electronically to public.comment@tcole.texas.gov or in writing to Mr. John P. Beauchamp, General Counsel, Texas Commission on Law Enforcement, 6330 E. Highway 290, Suite 200, Austin, Texas 78723-1035.

The amended rule is proposed pursuant to Texas Occupations Code §1701.151, General Powers of Commission; Rulemaking Authority, Texas Occupations Code §1701.1524, Rules Relating to Consequences of Criminal Conviction or Deferred Adjudication, Texas Occupations Code §1701.251, Training Programs; Instructors, and Texas Occupations Code §1701.253, School Curriculum. Texas Occupations Code §1701.151 authorizes the Commission to adopt rules for the administration of Occupations Code Chapter 1701 and to establish minimum standards relating to competence and reliability, including the education, training, physical, and mental standards, for licensing as an officer, county jailer, or telecommunicator. Texas Occupations Code §1701.1524 requires the Commission to adopt rules listing offenses for which a conviction or deferred adjudication would constitute grounds to take Commission action. Texas Occupations Code §1701.251 requires the Commission to establish and maintain training programs for the licensure of officers, county jailers, and telecommunicators. Texas Occupations Code §1701.253 requires the Commission to establish minimum curriculum requirements for training programs.

The amended rule as proposed affects or implements Texas Occupations Code §1701.151, General Powers of Commission; Rulemaking Authority, Texas Occupations Code §1701.1524, Rules Relating to Consequences of Criminal Conviction or Deferred Adjudication, Texas Occupations Code §1701.251, Training Programs; Instructors, and Texas Occupations Code §1701.253, School Curriculum. No other code, article, or statute is affected by this proposal.

§217.1. Minimum Standards for Enrollment and Initial Licensure.

~~[(a) In order for an individual to enroll in any basic licensing course the provider must have on file documentation, acceptable to the Commission, that the individual meets eligibility for licensure.]~~

(a) ~~[(b)]~~ The commission shall issue a license to a person ~~[an applicant]~~ who meets the following minimum standards for enrollment and initial licensure:

(1) minimum age requirement:

(A) for peace officers ~~[and public security officers]~~, is 21 years of age~~[;]~~ or 18 years of age if the applicant has received:

(i) an associate's degree~~[;]~~ or 60 semester hours of credit from an accredited college or university; or

(ii) has received an honorable discharge from the armed forces of the United States after at least two years of active service;

(B) for jailers and telecommunicators is 18 years of age;

(2) minimum educational requirements:

(A) has passed a general educational development (GED) test indicating high school graduation level;

(B) holds a high school diploma; or

(C) for enrollment purposes in a basic peace officer academy only, has an honorable discharge from the armed forces of the United States after at least 24 months of active duty service;

~~[(3) is fingerprinted and is subjected to a search of local, state and U.S. national records and fingerprint files to disclose any criminal record;]~~

(3) [(4)] has never been convicted of or placed on court-ordered community supervision or probation for any criminal offense above the grade of Class B misdemeanor [or a Class B misdemeanor within the last ten years from the date of the court order];

(4) has not been convicted of or placed on court-ordered community supervision or probation for a Class B misdemeanor within the last ten years from the date of the court order;

(5) is not currently charged with any criminal offense for which conviction would be a bar to licensure;

[(6) has never been convicted of an offense above the grade of a Class B misdemeanor or a Class B misdemeanor within the last ten years;]

(6) [(7)] has never been convicted of or placed on court-ordered community supervision or probation in any court of an offense involving family violence [as defined under Chapter 71, Texas Family Code];

(7) [(8)] for peace officers, is not prohibited by state or federal law from operating a motor vehicle;

(8) [(9)] for peace officers, is not prohibited by state or federal law from possessing firearms or ammunition;

[(10) has been subjected to a background investigation completed by the enrolling or appointing entity into the applicant's personal history. A background investigation shall include, at a minimum, the following:]

[(A) An enrolling entity shall:]

[(i) require completion of the Commission-approved personal history statement; and]

[(ii) verify that the applicant meets each individual requirement for licensure under this rule based on the personal history statement and any other information known to the enrolling entity; and]

[(iii) contact all previous enrolling entities.]

[(B) In addition to subparagraph (A) of this paragraph, a law enforcement agency or law enforcement agency academy shall:]

[(i) require completion of the Commission-approved personal history statement; and]

[(ii) meet all requirements enacted in Occupations Code 1701.451, including submission to the Commission of a form confirming all requirements have been met. An in-person review of personnel records is acceptable in lieu of making the personnel records available electronically if a hiring agency and a previous employing law enforcement agency mutually agree to the in-person review.]

(9) [(11)] on a form and in the manner prescribed by the commission, has been declared by a physician, who is licensed by the Texas Medical Board and selected by the enrolling entity or sponsoring law enforcement agency, to: [examined by a physician, selected by the appointing or employing agency, who is licensed by the Texas Medical Board. The physician must be familiar with the duties appropriate to the type of license sought and appointment to be made. The appointee must be declared by that professional, on a form prescribed by the commission, within 180 days before the date of appointment by the agency to be:]

(A) be physically sound and free from any defect which may adversely affect the performance of duty appropriate to the type of license sought; and

(B) show no trace of drug dependency or illegal drug use after a blood test or other medical test; [and]

[(C) for the purpose of meeting the requirements for initial licensure, an individual's satisfactory medical exam that is conducted as a requirement of a basic licensing course may remain valid for 180 days from the individual's date of graduation from that academy, if accepted by the appointing agency;]

(10) [(12)] on a form and in the manner prescribed by the Commission, has been declared by a psychologist, who is licensed by the Texas State Board of Examiners of Psychologists and selected by the enrolling entity or sponsoring law enforcement agency, or a psychiatrist, who is licensed by the Texas Medical Board and selected by the enrolling entity or sponsoring law enforcement agency, to be in satisfactory psychological and emotional health to serve as the type of licensee for the license sought; [examined by a psychologist, selected by the appointing, employing agency, or the academy, who is licensed by the Texas State Board of Examiners of Psychologists. This examination may also be conducted by a psychiatrist licensed by the Texas Medical Board. The psychologist or psychiatrist must be familiar with the duties appropriate to the type of license sought. The individual must be declared by that professional, on a form prescribed by the commission, to be in satisfactory psychological and emotional health to serve as the type of officer for which the license is sought. The examination must be conducted pursuant to professionally recognized standards and methods. The examination process must consist of a review of a job description for the position sought; review of any personal history statements; review of any background documents; at least two instruments, one which measures personality traits and one which measures psychopathology; and a face to face interview conducted after the instruments have been scored. The appointee must be declared by that professional, on a form prescribed by the commission, within 180 days before the date of the appointment by the agency;]

[(A) the commission may allow for exceptional circumstances where a licensed physician performs the evaluation of psychological and emotional health. This requires the appointing agency to request in writing and receive approval from the commission, prior to the evaluation being completed; or]

[(B) the examination may be conducted by qualified persons identified by Texas Occupations Code § 501.004. This requires the appointing agency to request in writing and receive approval from the commission, prior to the evaluation being completed; and]

[(C) for the purpose of meeting the requirements for initial licensure, an individual's satisfactory psychological exam that is conducted as a requirement of a basic licensing course may remain valid for 180 days from the individual's date of graduation from that academy, if accepted by the appointing agency;]

(11) [(13)] has never received a dishonorable discharge from the armed forces of the United States;

(12) [(14)] has not had a commission or out-of-state license denied by final order or revoked;

(13) [(15)] does not currently have a commission or out-of-state license suspended or surrendered [is not currently on suspension, or does not have a surrender of license currently in effect];

(14) [(16)] for initial licensure, has met [meets] the minimum training standards and passed [passes] the commission licensing examination for the [each] license sought; and

(15) [(17)] is a U.S. citizen or is a legal permanent resident of the United States, if the person is an honorably discharged veteran of the armed forces of the United States with at least two years of service before discharge and presents evidence satisfactory to the commission that the person has applied for United States citizenship.

(b) [~~(c)~~] For the purposes of this section, the commission will construe any court-ordered community supervision, probation, or conviction for a criminal offense to be its closest equivalent under the Texas Penal Code classification of offenses if the offense arose from another penal provision of Texas law or a penal provision of any other state, federal, military, or foreign jurisdiction. A classification of an offense as a felony at the time of conviction or placement on community supervision or probation will never be changed because Texas law has changed or because the offense would not be a felony under current Texas laws.[~~:~~]

[~~(1) another penal provision of Texas law; or~~]

[~~(2) a penal provision of any other state, federal, military, or foreign jurisdiction.~~]

(c) [~~(d)~~] For the purposes of this section, "closest equivalent" means the higher grade of offense after determining either: [~~A classification of an offense as a felony at the time of conviction will never be changed because Texas law has changed or because the offense would not be a felony under current Texas laws.~~]

(1) the offenses under comparison are substantially similar because of a high degree of likeness between their elements; or

(2) the potential, not actual, punishment attached under foreign or out-of-state law would be equal or greater than the potential punishment for a disqualifying offense under Texas law.

(d) [~~(e)~~] The minimum training standards and examination requirement that a person must meet are [~~A person must meet the training and examination requirements~~]:

(1) [~~training~~] for the peace officer license [~~consists of~~]:

(A) the current basic peace officer course [~~course(s)~~];

(B) a commission-recognized [~~commission recognized~~], POST-developed [~~POST developed~~], basic law enforcement training course, to include:

(i) out-of-state [~~out of state~~] licensure or certification; [~~and~~]

(ii) submission of the current eligibility application and fee; and [~~or~~]

(iii) within 180 days of the approval of the eligibility application, completion of a supplemental peace officer course and any other training required by the commission; or

(C) a commission-approved [~~commission approved~~] academic alternative program, taken through a licensed academic alternative provider and at least an associate's degree;[~~.~~]

(2) [~~training~~] for the jailer license, [~~consists of~~] the current basic county corrections course [~~course(s)~~] or training recognized under Texas Occupations Code § 1701.310 [~~§1701.310~~];

[~~(3) training for the public security officer license consists of the current basic peace officer course(s);~~]

(3) [~~(4)~~] [~~training~~] for the telecommunicator license, [~~consists of~~] the current basic telecommunicator licensing course; and

(4) [~~(5)~~] passing any examination required for the license sought while the exam approval remains valid.

(e) [~~(f)~~] On receipt of an application for a provisional license by an applicant who is a military service member, military veteran, or military spouse, the commission shall promptly issue a provisional license, consistent with Texas Occupations Code § 55.004.

(1) The applicant must:

(A) hold a current license issued by another state that is similar in scope of practice to the license applied for in this state and is in good standing with the other state's licensing authority; or

(B) within the five years preceding the application date have held the license in this state.

(2) A provisional license may not be reissued and expires on the earliest of:

(A) the date the commission issues a license to the provisional license holder;

(B) the date the applicant is determined to not meet the minimum standards for enrollment or initial licensure; or

(C) the 180th day after the date the provisional license is issued.

(f) [~~(g)~~] The commission may issue a provisional license, consistent with Texas Occupations Code § 1701.311 [~~§1701.311~~], to an agency for a person to be appointed by that agency. An agency must submit all required applications currently prescribed by the commission and all required fees before the individual is appointed. Upon the approval of the application, the commission will issue a provisional license. A provisional license is issued in the name of the applicant; however, it is issued to and shall remain in the possession of the agency. Such a license may neither be transferred by the applicant to another agency, nor transferred by the agency to another applicant. A provisional license may not be reissued and expires:

(1) 12 months from the original appointment date;

(2) on leaving the appointing agency; or

(3) on failure to comply with the terms stipulated in the provisional license approval.

(g) [~~(h)~~] The commission may issue a temporary jailer license, consistent with Texas Occupations Code § 1701.310 [~~§1701.310~~]. A jailer appointed on a temporary basis shall be enrolled in a basic jailer licensing course on or before the 90th day after their temporary appointment. An agency must submit all required applications currently prescribed by the commission and all required fees before the individual is appointed. Upon the approval of the application, the commission will issue a temporary jailer license. A temporary jailer license may not be renewed, except that the sheriff may petition the commission to extend the temporary appointment for a period not to exceed six months. A temporary jailer license expires:

(1) 12 months from the original appointment date;

(2) at the end of a six-month extension, if granted; or

(3) on completion of training and passing of the jailer licensing examination.

(h) [~~(i)~~] A person who has previously been issued a temporary jailer license and separated from that position may be subsequently appointed on a temporary basis as a county jailer at the same or a different county jail only if the person was in good standing at the time the person separated from the position.

(i) [~~(j)~~] A person who has cumulatively served as a county jailer on a temporary basis for two years may continue to serve for the remainder of that temporary appointment, not to exceed the first anniversary of the date of the most recent appointment. The person is not eligible for an extension of that appointment or for a subsequent appointment on a temporary basis as a county jailer at the same or a different county jail until the first anniversary of the date the person separates from the temporary appointment during which the person reached two years of cumulative service.

(j) [~~(k)~~] A person whose county jailer license has become inactive may be appointed as a county jailer on a temporary basis.

(k) [~~(l)~~] The commission may issue a temporary telecommunicator license, consistent with Texas Occupations Code § 1701.405 [~~§1701.405~~]. An agency must submit all required applications currently prescribed by the commission and all required fees before the individual is appointed. Upon the approval of the application, the commission will issue a temporary telecommunicator license. A temporary telecommunicator license expires:

(1) 12 months from the original appointment date; or

(2) on completion of training and passing of the telecommunicator licensing examination. On expiration of a temporary license, a person is not eligible for a new temporary telecommunicator license for one year.

(l) [~~(m)~~] A person who has not met all minimum standards is ineligible for a license. A license that has been issued to an ineligible person shall be cancelled or recalled. [~~A person who fails to comply with the standards set forth in this section shall not accept the issuance of a license and shall not accept any appointment. If an application for licensure is found to be false or untrue, it is subject to cancellation or recall.~~]

(m) [~~(n)~~] The effective date of this section is January 1, 2027 [~~June 1, 2026~~].

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

Filed with the Office of the Secretary of State on October 5, 2026.

TRD-202604233
Gregory Stevens
Executive Director
Texas Commission on Law Enforcement
Earliest possible date of adoption: November 15, 2026
For further information, please call: (512) 936-7700

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37 TAC §§217.3, 217.5, 217.7, 217.8

The Texas Commission on Law Enforcement (Commission) proposes the repeal of 37 Texas Administrative Code §217.3, Application for License and Initial Report of Appointment, 37 Texas Administrative Code §217.5, Denial and Cancellation, 37 Texas Administrative Code §217.7, Reporting Appointment and Separation of a Licensee, and 37 Texas Administrative Code §217.8, Contesting an Employment Termination Report. These proposed repeals are part of the proposed reorganization and clarification of Chapter 217, concerning Enrollment, Licensing, Appointment, and Separation. It would remove outdated enrollment, licensing, and appointment language, would move enrollment and appointment processes to their own respective rules, and would clarify the language of this chapter. Updated new rules will be proposed simultaneously to replace §217.3, Application for License and Initial Report of Appointment, §217.5, Denial and Cancellation, and §217.7, Reporting Appointment and Separation of a Licensee. However, §217.8, Contesting an Employment Termination Report, will not be replaced because Senate Bill 1445 (88R) removed the discharge designations and the authority to contest the contents of a report of separation, effective March 1, 2024, making this rule obsolete.

Mr. John P. Beauchamp, General Counsel, has determined that for each year of the first five years these proposed repealed rules will be in effect, there will be no foreseeable fiscal implications to state or local governments as a result of enforcing or administering the proposed repeals.

Mr. Beauchamp has determined that for each year of the first five years these proposed repealed rules will be in effect, there will be a positive benefit to the public by reorganizing and clarifying Chapter 217 for ease of understanding. There will be no anticipated economic costs to persons required to comply with the proposed repeals.

Mr. Beauchamp has determined that for each year of the first five years these proposed repealed rules will be in effect, there will be no adverse economic effects to small businesses, microbusinesses, or rural communities as a result of implementing the proposed repeals.

Mr. Beauchamp has determined that for each year of the first five years these proposed repealed rules will be in effect, there will be no effects to a local economy as a result of implementing the proposed repeals.

Mr. Beauchamp has determined the following:

(1) the proposed repeals do not create or eliminate a government program;

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

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

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

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

(6) the proposed repeals do not expand or limit an existing regulation, but do repeal outdated Commission processes relating to applying for a license or contesting a report of separation;

(7) the proposed repeals do not increase or decrease the number of individuals subject to the rule's applicability; and

(8) the proposed repeals do not positively or adversely affect this state's economy.

The Commission is requesting comments regarding the proposed repealed rules and information related to the cost, benefit, or effect of the proposed repealed rules, including any applicable data, research, or analysis, from any person required to comply with the proposed repealed rules or any other interested person. The comment period will last 30 days following the publication of this proposal in the *Texas Register*. Comments and information may be submitted electronically to public.comment@tcole.texas.gov or in writing to Mr. John P. Beauchamp, General Counsel, Texas Commission on Law Enforcement, 6330 E. Highway 290, Suite 200, Austin, Texas 78723-1035.

The repealed rules are proposed pursuant to Texas Occupations Code §1701.151, General Powers of Commission; Rulemaking Authority. Texas Occupations Code §1701.151 authorizes the Commission to adopt rules for the administration of Occupations Code Chapter 1701.

The repealed rules as proposed affect or implement Texas Occupations Code Chapter 1701, Law Enforcement Officers. No other code, article, or statute is affected by this proposal.

§217.3. Application for License and Initial Report of Appointment.

§217.5. Denial and Cancellation.

§217.7. Reporting Appointment and Separation of a Licensee.

§217.8. Contesting an Employment Termination Report.

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

Filed with the Office of the Secretary of State on October 5, 2026.

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Gregory Stevens
Executive Director
Texas Commission on Law Enforcement
Earliest possible date of adoption: November 15, 2026
For further information, please call: (512) 936-7700

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37 TAC §217.3

The Texas Commission on Law Enforcement (Commission) proposes new 37 Texas Administrative Code §217.3, Enrollment in a Basic Licensing Course. This proposed new rule is part of the proposed reorganization and clarification of Chapter 217, concerning Enrollment, Licensing, Appointment, and Separation. It would remove outdated enrollment, licensing, and appointment language, would move enrollment and appointment processes to their own respective rules, and would clarify the language of this chapter. This proposed new rule would contain enrollment processes previously codified in §217.1, Minimum Standards for Enrollment and Initial Licensure, §217.7, Reporting Appointment and Separation of a Licensee, and Texas Occupations Code §1701.451, Preemployment Procedure. Some of these proposed changes were recommended by the Texas Regulatory Efficiency Office within the Office of the Governor.

The proposed new rule would also incorporate current Commission practices, including that: (1) an enrolling entity request and review records from each basic licensing course attended by a prospective enrollee; (2) for a medical examination (L-2), an enrolling entity provide all available records relating to a person's prior failed medical examination to the practitioner; (3) for a psychological examination (L-3), an enrolling entity provide a summary of any records relating to a person's prior failure to complete a basic licensing course and all available records relating to a person's prior failed psychological examination to the practitioner; and (4) for an L-3, the required face-to-face interview may be conducted in person or through video.

Mr. John P. Beauchamp, General Counsel, has determined that for each year of the first five years this proposed new rule will be in effect, there will be no foreseeable fiscal implications to state or local governments as a result of enforcing or administering the proposed rule.

Mr. Beauchamp has determined that for each year of the first five years this proposed new rule will be in effect, there will be a positive benefit to the public by reorganizing and clarifying Chapter 217 for ease of understanding. There will be no anticipated economic costs to persons required to comply with the proposed rule.

Mr. Beauchamp has determined that for each year of the first five years this proposed new rule will be in effect, there will be no adverse economic effects to small businesses, microbusinesses, or rural communities as a result of implementing the proposed rule.

Mr. Beauchamp has determined that for each year of the first five years this proposed new rule will be in effect, there will be no effects to a local economy as a result of implementing the proposed rule.

Mr. Beauchamp has determined the following:

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

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

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

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

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

(6) the proposed rule does not limit or repeal an existing regulation, but does expand an existing regulation by requiring enrolling entities to request and review records from each basic licensing course attended by a prospective enrollee;

(7) the proposed rule does not increase or decrease the number of individuals subject to the rule's applicability; and

(8) the proposed rule does not positively or adversely affect this state's economy.

The Commission is requesting comments regarding the proposed new rule and information related to the cost, benefit, or effect of the proposed new rule, including any applicable data, research, or analysis, from any person required to comply with the proposed new rule or any other interested person. The comment period will last 30 days following the publication of this proposal in the *Texas Register*. Comments and information may be submitted electronically to public.comment@tcole.texas.gov or in writing to Mr. John P. Beauchamp, General Counsel, Texas Commission on Law Enforcement, 6330 E. Highway 290, Suite 200, Austin, Texas 78723-1035.

The new rule is proposed pursuant to Texas Occupations Code §1701.151, General Powers of Commission; Rulemaking Authority, Texas Occupations Code §1701.306, Psychological and Physical Examination, and Texas Occupations Code §1701.451, Preemployment Procedure. Texas Occupations Code §1701.151 authorizes the Commission to adopt rules for the administration of Occupations Code Chapter 1701 and to establish minimum standards relating to competence and reliability, including the education, training, physical, and mental standards, for licensing as an officer, county jailer, or telecommunicator. Texas Occupations Code §1701.306 requires the Commission to adopt rules relating to the medical and psychological examinations required for a person to obtain a license. Texas Occupations Code §1701.451 requires the Commission

to establish procedures for the pre-appointment background investigation of a person.

The new rule as proposed affects or implements Texas Occupations Code Chapter 1701, Law Enforcement Officers. No other code, article, or statute is affected by this proposal.

§217.3. Enrollment in a Basic Licensing Course.

(a) Before a person may enroll in a basic licensing course, the enrolling entity must:

(1) verify that the person meets the minimum standards for enrollment and initial licensure; or

(2) obtain proof from a sponsoring law enforcement agency that verified the person meets the minimum standards for enrollment and initial licensure after conducting and documenting a pre-appointment background investigation.

(b) To verify that a person meets the minimum standards for enrollment and initial licensure, the enrolling entity must:

(1) obtain the person's written consent for the enrolling entity to view the person's records;

(2) obtain a complete, signed, and notarized or digitally certified commission-approved Personal History Statement (PHS); and

(3) conduct and document a pre-enrollment background investigation on the person, to include at a minimum:

(A) reviewing the PHS for eligibility for licensure;

(B) obtaining documentation that the person has been fingerprinted and subjected to a search of local, state, and U.S. national records and fingerprint files to disclose any criminal record and is not disqualified based on criminal records discovered;

(C) requesting and reviewing records from each basic licensing course attended, regardless of completion;

(D) for a person who is a military veteran, obtaining the United States Department of Defense Form DD-214 or other military discharge record;

(E) obtaining and reviewing evidence of financial responsibility as required by Texas Transportation Code § 601.051;

(F) obtaining and reviewing information on the person's law enforcement background as available through the national decertification index (NDI);

(G) obtaining proof of United States citizenship or, if the person is an honorably discharged veteran of the armed forces of the United States with at least two years of service before discharge, proof of legal permanent residence and proof that the person has applied for United States citizenship;

(H) obtaining proof of meeting the minimum educational requirements for licensure;

(I) obtaining a valid Licensee Medical Condition Declaration (L-2) for the person; and

(J) obtaining a valid Licensee Psychological and Emotional Health Declaration (L-3) for the person.

(c) To obtain a valid L-2:

(1) the enrolling entity must select a physician licensed by the Texas Medical Board to conduct a medical examination of the person;

(2) the enrolling entity shall provide the physician with a job description for the type of license sought and all available records relating to any medical examinations previously failed by the person;

(3) the physician must be familiar with the duties appropriate to the type of license sought; and

(4) the physician must examine the person and declare within 180 days of enrollment that the person:

(A) is physically sound and free from any defect which may adversely affect the performance of duty appropriate to the type of license sought; and

(B) shows no trace of drug dependency or illegal drug use after a blood test or other medical test.

(d) To obtain a valid L-3:

(1) the enrolling entity must select one of the following practitioners to conduct a psychological examination of the person:

(A) a psychologist licensed by the Texas State Board of Examiners of Psychologists;

(B) a psychiatrist licensed by the Texas Medical Board;

(C) under exceptional circumstances and with prior written approval from the commission, a physician licensed by the Texas Medical Board; or

(D) under exceptional circumstances and with prior written approval from the commission, a qualified person identified by Texas Occupations Code § 501.004;

(2) the enrolling entity shall provide the practitioner with a job description for the type of license sought, the person's PHS, a summary of any records relating to the person's prior failure to complete a basic licensing course, and all available records relating to any psychological examinations previously failed by the person;

(3) the practitioner must be familiar with the duties appropriate to the type of license sought;

(4) the examination must:

(A) consist of at least two instruments, one which measures personality traits and one which measures psychopathology;

(B) consist of a face-to-face interview, either in person or through video, conducted after the instruments have been scored; and

(C) use professionally recognized standards and methods; and

(5) the practitioner must examine the person and declare within 180 days of enrollment that the person is in satisfactory psychological and emotional health to serve as the type of licensee for the license sought.

(e) A law enforcement agency or enrolling entity that is given a signed consent form shall make the person's records available to a prospective enrolling entity.

(f) When a person separates from an enrolling entity, within 30 days of the separation, the enrolling entity shall report the separation to the commission.

(g) An enrolling entity must retain records obtained or created under this section while the person is enrolled and for a minimum of five years after the person's separation from the enrolling entity or completion of the basic licensing course. The records must be maintained under the control of the training coordinator or designee in a physi-

cal or electronic format readily accessible to the commission and any prospective enrolling entity or prospective appointing law enforcement agency.

(h) The effective date of this section is January 1, 2027.

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

Filed with the Office of the Secretary of State on October 5, 2026.

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Gregory Stevens
Executive Director
Texas Commission on Law Enforcement
Earliest possible date of adoption: November 15, 2026
For further information, please call: (512) 936-7700

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37 TAC §217.5

The Texas Commission on Law Enforcement (Commission) proposes new 37 Texas Administrative Code §217.5, Reporting Appointment and Separation of a Licensee. This proposed new rule is part of the proposed reorganization and clarification of Chapter 217, concerning Enrollment, Licensing, Appointment, and Separation. It would remove outdated enrollment, licensing, and appointment language, would move enrollment and appointment processes to their own respective rules, and would clarify the language of this chapter. This proposed new rule would contain appointment and separation processes previously codified in §217.1, Minimum Standards for Enrollment and Initial Licensure, §217.7, Reporting Appointment and Separation of a Licensee, Texas Occupations Code §1701.303, License Application; Duties of Appointing Entity, and Texas Occupations Code §1701.451, Preemployment Procedure. Some of these proposed changes were recommended by the Texas Regulatory Efficiency Office within the Office of the Governor.

The proposed new rule would also incorporate current Commission practices, including that: (1) for a medical examination (L-2), an appointing entity provide all available records relating to a person's prior failed medical examination to the practitioner; (2) for a psychological examination (L-3), an appointing entity provide all available records relating to a person's prior failed psychological examination to the practitioner; (3) for an L-3, the required face-to-face interview may be conducted in person or through video; and (4) an appointing entity may not appoint a person with an unresolved failed medical or psychological examination.

New requirements in the proposed new rule would include: (1) a prohibition on a person from performing any of the appointment or separation requirements for their own appointment or separation to reduce conflicts of interest, the appearance of impropriety, or unethical actions; (2) a streamlined process for the appointment of a constitutionally elected official which only requires verification that the person meets the minimum standards for initial licensure to dispose of the investigation of suitability concerns made unnecessary by their election; and (3) an appointing agency obtaining approval of an appointment before allowing the person to act under the authority of a Commission license to prevent the person from performing regulated activity without proper authority.

Mr. John P. Beauchamp, General Counsel, has determined that for each year of the first five years this proposed new rule will be in effect, there will be no foreseeable fiscal implications to state or local governments as a result of enforcing or administering the proposed rule.

Mr. Beauchamp has determined that for each year of the first five years this proposed new rule will be in effect, there will be a positive benefit to the public by reorganizing and clarifying Chapter 217 for ease of understanding. There will be no anticipated economic costs to persons required to comply with the proposed rule.

Mr. Beauchamp has determined that for each year of the first five years this proposed new rule will be in effect, there will be no adverse economic effects to small businesses, microbusinesses, or rural communities as a result of implementing the proposed rule.

Mr. Beauchamp has determined that for each year of the first five years this proposed new rule will be in effect, there will be no effects to a local economy as a result of implementing the proposed rule.

Mr. Beauchamp has determined the following:

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

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

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

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

(5) the proposed rule does create a new regulation by prohibiting a person from performing their own appointment or separation requirements;

(6) the proposed rule does not repeal an existing regulation, but does expand an existing regulation by requiring an appointing agency to obtain approval of an appointment before allowing the person to act under the authority of a Commission license, and does limit an existing regulation by streamlining the process for the appointment of a constitutionally elected official;

(7) the proposed rule does not increase or decrease the number of individuals subject to the rule's applicability; and

(8) the proposed rule does not positively or adversely affect this state's economy.

The Commission is requesting comments regarding the proposed new rule and information related to the cost, benefit, or effect of the proposed new rule, including any applicable data, research, or analysis, from any person required to comply with the proposed new rule or any other interested person. The comment period will last 30 days following the publication of this proposal in the *Texas Register*. Comments and information may be submitted electronically to public.comment@tcole.texas.gov or in writing to Mr. John P. Beauchamp, General Counsel, Texas Commission on Law Enforcement, 6330 E. Highway 290, Suite 200, Austin, Texas 78723-1035.

The new rule is proposed pursuant to Texas Occupations Code §1701.151, General Powers of Commission; Rulemaking Authority, Texas Occupations Code §1701.303, License Application; Duties of Appointing Entity, Texas Occupations Code

§1701.306, Psychological and Physical Examination, Texas Occupations Code §1701.451, Preemployment Procedure, and Texas Occupations Code §1701.452, Employment Termination Report. Texas Occupations Code §1701.151 authorizes the Commission to adopt rules for the administration of Occupations Code Chapter 1701 and to establish minimum standards relating to competence and reliability, including the education, training, physical, and mental standards, for licensing as an officer, county jailer, or telecommunicator. Texas Occupations Code §1701.303 requires a law enforcement agency to review certain information in the possession of the Commission as part of a pre-appointment background investigation of a person. Texas Occupations Code §1701.306 requires the Commission to adopt rules relating to the medical and psychological examinations required for a person to obtain a license. Texas Occupations Code §1701.451 requires the Commission to establish procedures for the pre-appointment background investigation of a person. Texas Occupations Code §1701.452 establishes the reporting requirements for a person's separation from an appointment.

The new rule as proposed affects or implements Texas Occupations Code Chapter 1701, Law Enforcement Officers. No other code, article, or statute is affected by this proposal.

§217.5. Reporting Appointment and Separation of a Licensee.

(a) A person who is the subject of an appointment or a separation shall not perform any of the appointment or separation requirements in this section for themselves.

(b) Before a law enforcement agency may appoint a person licensed as a peace officer, county jailer, or telecommunicator, except a constitutionally elected official, the agency chief administrator or designee must:

(1) obtain the person's written consent for the agency to view the person's records;

(2) obtain a complete, signed, and notarized or digitally certified commission-approved Personal History Statement (PHS);

(3) conduct and document a pre-appointment background investigation on the person, to include at a minimum:

(A) obtaining the F5R History and Employment Verification (F5R) and Personal Status Report (PSR) from the commission;

(B) reviewing the PHS for eligibility for licensure and appointment and suitability for appointment

(C) having the person fingerprinted and subjected to a search of local, state, and U.S. national records and fingerprint files to disclose any criminal record or pending warrants;

(D) obtaining and reviewing offense reports and criminal court records for any arrests or criminal cases discovered;

(E) requesting and reviewing records from the commission maintained in the commission service records and confidential statewide employment database;

(F) requesting and reviewing records from each basic licensing course attended, regardless of completion;

(G) requesting and reviewing records from each previous appointing agency, to include at a minimum the personnel file, department file, TCOLE credentialing file, appointment application, and other appointment or employment records;

(H) for a person who is a military veteran, obtaining the United States Department of Defense Form DD-214 or other military discharge record;

(I) obtaining and reviewing evidence of financial responsibility as required by Texas Transportation Code § 601.051;

(J) obtaining and reviewing a driving record from the Texas Department of Public Safety;

(K) obtaining and reviewing information on the person's law enforcement background as available through the national decertification index (NDI);

(L) obtaining and reviewing information on the person's background from at least three personal references and at least two professional references;

(M) obtaining proof of United States citizenship or, if the person is an honorably discharged veteran of the armed forces of the United States with at least two years of service before discharge, proof of legal permanent residence and proof that the person has applied for United States citizenship;

(N) obtaining proof of meeting the minimum educational requirements for licensure;

(O) for a first appointment or an appointment more than 180 days after a licensee's last appointment, obtaining a valid Licensee Medical Condition Declaration (L-2) for the person;

(P) for a first appointment or an appointment more than 180 days after a licensee's last appointment, obtaining a valid Licensee Psychological and Emotional Health Declaration (L-3) for the person; and

(Q) for a peace officer, obtaining proof of valid annual firearms proficiency;

(4) verify that the person meets the minimum standards for initial licensure;

(5) complete the F5R;

(6) prepare a summary that documents the findings of the background investigation;

(7) submit to the commission a completed Background Confirmation Form (BCF) certifying that all pre-appointment procedures required by Occupations Code § 1701.451 have been completed; and

(8) submit to the commission a completed Appointment Application (L-1) or Telecommunicator Appointment (L1-T).

(c) Before a law enforcement agency may appoint a constitutionally elected official as sheriff or constable, the agency must:

(1) verify that the person meets the minimum standards for initial licensure by:

(A) having the person fingerprinted and subjected to a search of local, state, and U.S. national records and fingerprint files to disclose any criminal record or pending warrants;

(B) obtaining and reviewing offense reports and criminal court records for any arrests or criminal cases discovered;

(C) for a person who is a military veteran, obtaining the United States Department of Defense Form DD-214 or other military discharge record;

(D) obtaining and reviewing information on the person's law enforcement background as available through the national decertification index (NDI);

(E) obtaining proof of United States citizenship or, if the person is an honorably discharged veteran of the armed forces of the

United States with at least two years of service before discharge, proof of legal permanent residence and proof that the person has applied for United States citizenship;

(F) obtaining proof of meeting the minimum educational requirements for licensure;

(G) for a first appointment or an appointment more than 180 days after a licensee's last appointment, obtaining a valid L-2 for the person; and

(H) for a first appointment or an appointment more than 180 days after a licensee's last appointment, obtaining a valid L-3 for the person; and

(2) submit to the commission a completed Appointment Application (L-1).

(d) To obtain a valid L-2:

(1) the agency must select a physician licensed by the Texas Medical Board to conduct a medical examination of the person;

(2) the agency shall provide the physician with a job description for the type of appointment sought and all available records relating to any medical examinations previously failed by the person;

(3) the physician must be familiar with the duties appropriate to the type of appointment sought; and

(4) the physician must examine the person and declare within 180 days of appointment that the person:

(A) is physically sound and free from any defect which may adversely affect the performance of duty appropriate to the type of appointment sought; and

(B) shows no trace of drug dependency or illegal drug use after a blood test or other medical test.

(e) To obtain a valid L-3:

(1) the agency must select one of the following practitioners to conduct a psychological examination of the person:

(A) a psychologist licensed by the Texas State Board of Examiners of Psychologists;

(B) a psychiatrist licensed by the Texas Medical Board;

(C) under exceptional circumstances and with prior written approval from the commission, a physician licensed by the Texas Medical Board; or

(D) under exceptional circumstances and with prior written approval from the commission, a qualified person identified by Texas Occupations Code § 501.004;

(2) the agency shall provide the practitioner with a job description for the type of appointment sought, the person's PHS, a summary of the background investigation, and all available records relating to any psychological examinations previously failed by the person;

(3) the practitioner must be familiar with the duties appropriate to the type of appointment sought;

(4) the examination must:

(A) consist of at least two instruments, one which measures personality traits and one which measures psychopathology;

(B) consist of a face-to-face interview, either in person or through video, conducted after the instruments have been scored; and

(C) use professionally recognized standards and methods; and

(5) the practitioner must examine the person and declare within 180 days of appointment that the person is in satisfactory psychological and emotional health to serve as the type of licensee for the appointment sought.

(f) For a first appointment, an agency may also obtain a valid L-2 or L-3 that the person used for enrollment in a basic licensing course for the license type corresponding to the appointment if the appointment occurs within 180 days from completion of the basic licensing course.

(g) If a person fails any L-2, L-3, medical fitness-for-duty examination (FFDE), or psychological FFDE, an agency may not appoint that person until another valid L-2 or L-3 is obtained, as applicable.

(h) The agency must obtain approval of the appointment from the commission before allowing the person to act under the authority of the license.

(i) A law enforcement agency or enrolling entity that is given a signed consent form shall make the person's records available to a prospective appointing law enforcement agency as authorized by Texas Occupations Code § 1701.451.

(j) When a licensee separates from an agency, within seven business days of the separation or exhaustion of all available administrative appeals, the agency shall:

(1) submit a Separation of Licensee (F-5) report to the commission; and

(2) provide a copy of the F-5 report to the licensee by hand delivery or by certified mail to the last known address of the licensee.

(k) An agency must retain records obtained or created under this section while the person is appointed and for a minimum of five years after the licensee's separation date with that agency. The records must be maintained under the control of the agency chief administrator or designee in a physical or electronic format readily accessible to the commission and any prospective appointing law enforcement agency.

(l) The effective date of this section is January 1, 2027.

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

Filed with the Office of the Secretary of State on October 5, 2026.

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Gregory Stevens
Executive Director
Texas Commission on Law Enforcement
Earliest possible date of adoption: November 15, 2026
For further information, please call: (512) 936-7700

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37 TAC §217.7

The Texas Commission on Law Enforcement (Commission) proposes new 37 Texas Administrative Code §217.7, Reporting of Enrollment, Licensure, and Appointment. This proposed new rule is part of the proposed reorganization and clarification of Chapter 217, concerning Enrollment, Licensing, Appointment, and Separation. It would remove outdated enrollment, licensing, and appointment language, would move enrollment and appointment processes to their own respective rules, and would clarify

the language of this chapter. This proposed new rule would contain the rule provisions previously codified in §217.5, Denial and Cancellation, with edits to remove references to the outdated application process and to clean up the rule's language.

Mr. John P. Beauchamp, General Counsel, has determined that for each year of the first five years this proposed new rule will be in effect, there will be no foreseeable fiscal implications to state or local governments as a result of enforcing or administering the proposed rule.

Mr. Beauchamp has determined that for each year of the first five years this proposed new rule will be in effect, there will be a positive benefit to the public by reorganizing and clarifying Chapter 217 for ease of understanding. There will be no anticipated economic costs to persons required to comply with the proposed rule.

Mr. Beauchamp has determined that for each year of the first five years this proposed new rule will be in effect, there will be no adverse economic effects to small businesses, microbusinesses, or rural communities as a result of implementing the proposed rule.

Mr. Beauchamp has determined that for each year of the first five years this proposed new rule will be in effect, there will be no effects to a local economy as a result of implementing the proposed rule.

Mr. Beauchamp has determined the following:

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

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

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

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

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

(6) the proposed rule does not expand, limit, or repeal an existing regulation;

(7) the proposed rule does not increase or decrease the number of individuals subject to the rule's applicability; and

(8) the proposed rule does not positively or adversely affect this state's economy.

The Commission is requesting comments regarding the proposed new rule and information related to the cost, benefit, or effect of the proposed new rule, including any applicable data, research, or analysis, from any person required to comply with the proposed new rule or any other interested person. The comment period will last 30 days following the publication of this proposal in the *Texas Register*. Comments and information may be submitted electronically to public.comment@tcole.texas.gov or in writing to Mr. John P. Beauchamp, General Counsel, Texas Commission on Law Enforcement, 6330 E. Highway 290, Suite 200, Austin, Texas 78723-1035.

The new rule is proposed pursuant to Texas Occupations Code §1701.151, General Powers of Commission; Rulemaking Authority. Texas Occupations Code §1701.151 authorizes the Commission to adopt rules for the administration of Occupations Code Chapter 1701 and to establish minimum standards relating to competence and reliability, including the education, training, physical, and mental standards, for licensing as an officer, county jailer, or telecommunicator.

The new rule as proposed affects or implements Texas Occupations Code Chapter 1701, Law Enforcement Officers. No other code, article, or statute is affected by this proposal.

§217.7. Reporting of Enrollment, Licensure, and Appointment.

(a) The commission may deny any license and may refuse to accept a report of appointment if the:

(1) person has not been reported to the commission as meeting all minimum standards, including any training or testing requirements;

(2) person has not affixed any required signature;

(3) required forms or documentation are incomplete, illegible, or are not attached;

(4) report is not submitted or signed by a chief administrator, or designee with authority to appoint the person to the position reported;

(5) report is not submitted by the appointing agency or entity;

(6) agency reports the person in a capacity that does not require the license sought;

(7) agency fails to provide documentation, if requested, of the agency's creation or authority to appoint persons in the capacity of the license sought or the agency is without such authority;

(8) report contains a false assertion by any person; or

(9) person is subject to pending administrative action against a commission-issued license.

(b) An agency chief administrator or school district may not appoint a person subject to pending administrative action based on:

(1) enrollment or licensure ineligibility; or

(2) statutory suspension or revocation.

(c) If a license is subject to denial under subsection (a) of this section, any license issued to the person by the commission is subject to cancellation.

(d) Any such document may expire or be cancelled, surrendered, suspended, revoked, deactivated, or otherwise invalidated. Mere possession of the physical document does not necessarily mean that the person:

(1) currently holds, has ever held, or has any of the powers of the office indicated on the document; or

(2) still holds an active, valid license or certificate.

(e) The effective date of this section is January 1, 2027.

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

Filed with the Office of the Secretary of State on October 5, 2026.

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Gregory Stevens
Executive Director
Texas Commission on Law Enforcement
Earliest possible date of adoption: November 15, 2026
For further information, please call: (512) 936-7700

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CHAPTER 221. PROFICIENCY CERTIFICATES

37 TAC §221.51

The Texas Commission on Law Enforcement (Commission) proposes new 37 Texas Administrative Code §221.51, Law Enforcement Polygraph Certificate. This proposed new rule would establish a certificate to conduct certain polygraph examinations for law enforcement purposes. Specifically, the certificate would be required for a peace officer to conduct a polygraph examination for pre-appointment screening or criminal investigation purposes. It would also be required for any person to conduct a polygraph examination for pre-appointment screening purposes. This conforms with the requirements in Texas Occupations Code § 1701.318 made by Senate Bill 2180 (89R) and is recommended by the Law Enforcement Polygraph Examinations Advisory Committee. The proposed new rule would require completion of a polygraph training program to obtain the certificate and continuing education to maintain the certificate.

Mr. John P. Beauchamp, General Counsel, has determined that for each year of the first five years this proposed new rule will be in effect, there will be no foreseeable fiscal implications to state or local governments as a result of enforcing or administering the proposed rule.

Mr. Beauchamp has determined that for each year of the first five years this proposed new rule will be in effect, there will be a positive benefit to the public by conforming with Texas Occupations Code §1701.318. There will be anticipated economic costs to persons required to comply with the proposed rule to include a Commission application fee and training and continuing education fees from outside training entities.

Mr. Beauchamp has determined that for each year of the first five years this proposed new rule will be in effect, there will be no adverse economic effects to small businesses, microbusinesses, or rural communities as a result of implementing the proposed rule.

Mr. Beauchamp has determined that for each year of the first five years this proposed amended rule will be in effect, there will be no effects to a local economy as a result of implementing the proposed rule.

Mr. Beauchamp has determined the following:

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

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

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

(4) the proposed rule does require an increase in fees paid to the agency for an individual to obtain the law enforcement polygraph certificate;

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

(6) the proposed rule does not limit or repeal an existing regulation, but does expand an existing regulation by requiring certification of individuals who are not peace officers to conduct pre-appointment polygraph examinations;

(7) the proposed rule does increase the number of individuals subject to the rule's applicability by requiring certification of individuals who are not peace officers to conduct pre-appointment polygraph examinations; and

(8) the proposed rule does not positively or adversely affect this state's economy.

The Commission is requesting comments regarding the proposed new rule and information related to the cost, benefit, or effect of the proposed new rule, including any applicable data, research, or analysis, from any person required to comply with the proposed new rule or any other interested person. The comment period will last 30 days following the publication of this proposal in the *Texas Register*. Comments and information may be submitted electronically to public.comment@tcole.texas.gov or in writing to Mr. John P. Beauchamp, General Counsel, Texas Commission on Law Enforcement, 6330 E. Highway 290, Suite 200, Austin, Texas 78723-1035.

The new rule is proposed pursuant to Texas Occupations Code §1701.151, General Powers of Commission; Rulemaking Authority, and Texas Occupations Code §1701.318, Certification Required for Peace Officers to Conduct Polygraph Examinations. Texas Occupations Code §1701.151 authorizes the Commission to adopt rules for the administration of Occupations Code Chapter 1701. Texas Occupations Code §1701.318 requires the Commission to adopt rules prohibiting a peace officer from conducting certain polygraph examinations unless they have completed Commission-approved training and allows the Commission to establish minimum requirements for the training, testing, and certification of peace officers to conduct certain polygraph examinations.

The new rule as proposed affects or implements Texas Occupations Code §1701.151, General Powers of Commission; Rulemaking Authority, and Texas Occupations Code §1701.318, Certification Required for Peace Officers to Conduct Polygraph Examinations. No other code, article, or statute is affected by this proposal.

§221.51. Law Enforcement Polygraph Certificate.

(a) To qualify for a law enforcement polygraph certificate, an applicant must:

(1) meet initial training and examination requirements by:

(A) successful completion of a current polygraph training program provided by a polygraph school that is accredited by the American Polygraph Association (APA) or is recognized by the American Association of Police Polygraphists (AAPP); or

(B) current membership with the APA or AAPP on January 1, 2027, and previous successful completion of a polygraph training program provided by a polygraph school that was accredited by the APA or was recognized by the AAPP; and

(2) submit a completed application, in the format currently prescribed by the commission, and any required fee.

(b) To keep the certificate valid, the holder must complete 30 hours of commission-approved polygraph continuing education every two-year training unit to include 16 hours of continuing education obtained through attendance at a commission-approved polygraph conference.

(c) If the certificate becomes invalid, a holder may renew the certificate by completing all outstanding continuing education hours.

(d) A person who is a peace officer is required to hold a valid law enforcement polygraph certificate to conduct polygraph examinations for:

(1) a pre-appointment examination of a candidate applying for a position that requires a commission license; or

(2) a criminal investigation.

(e) A person, regardless of their status as a peace officer, is required to hold a valid law enforcement polygraph certificate to conduct polygraph examinations for a pre-appointment examination of a candidate applying for a position that requires a commission license.

(f) A certificate holder should adhere to the relevant ethics, policies, and standards of practice currently prescribed by the APA or AAPP when conducting a polygraph examination that requires a certificate.

(g) The effective date of this section is January 1, 2027.

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

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