

# ADOPTED RULES

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

## TITLE 19. EDUCATION

### PART 1. TEXAS HIGHER EDUCATION COORDINATING BOARD

#### CHAPTER 1. AGENCY ADMINISTRATION SUBCHAPTER F. ADVISORY COMMITTEE ON RESEARCH PROGRAMS

##### 19 TAC §§1.121 - 1.127

The Texas Higher Education Coordinating Board (Coordinating Board) adopts repeal of Title 19, Part 1, Chapter 1, Subchapter F, §§1.121 - 1.127, Advisory Committee on Research Programs, without changes to the proposed text as published in the October 11, 2024, issue of the *Texas Register* (49 TexReg 8275). The rules will not be republished.

The repeal eliminates the subchapter and the committee itself, which is no longer necessary because the research funding programs have not been funded by the Legislature in several biennia, making the advisory committee unnecessary.

No comments were received regarding the adoption of the repeal.

The repeal is adopted under Texas Education Code, Section 61.027, which provides the Coordinating Board with the authority to adopt and publish rules in accordance with Texas Government Code, Chapter 2001.

The adopted repeal affects Texas Administrative Code, Title 19, Part 1, Chapter 1, Subchapter F.

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

Filed with the Office of the Secretary of State on January 24, 2025.

TRD-202500254  
Nichole Bunker-Henderson  
General Counsel  
Texas Higher Education Coordinating Board  
Effective date: February 13, 2025  
Proposal publication date: October 11, 2024  
For further information, please call: (512) 427-6182



#### SUBCHAPTER N. GRADUATE EDUCATION ADVISORY COMMITTEE

##### 19 TAC §§1.178 - 1.184

The Texas Higher Education Coordinating Board (Coordinating Board) adopts repeal of Title 19, Part 1, Chapter 1, Subchapter N, §§1.178 - 1.184, Graduate Education Advisory Committee, without changes to the proposed text as published in the October 11, 2024, issue of the *Texas Register* (49 TexReg 8276). The rule will not be republished.

The repeal eliminates the subchapter and the committee itself, which was set to be abolished no later than October 31, 2021, and which no longer meets.

No comments were received regarding the adoption of the repeal.

The repeal is adopted under Texas Education Code, Section 61.027, which provides the Coordinating Board with the authority to adopt and publish rules in accordance with Texas Government Code, Chapter 2001.

The adopted repeal affects Texas Administrative Code, Title 19, Part 1, Chapter 1, Subchapter N.

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

Filed with the Office of the Secretary of State on January 24, 2025.

TRD-202500255  
Nichole Bunker-Henderson  
General Counsel  
Texas Higher Education Coordinating Board  
Effective date: February 13, 2025  
Proposal publication date: October 11, 2024  
For further information, please call: (512) 427-6182



#### SUBCHAPTER Q. COMMUNITY AND TECHNICAL COLLEGE LEADERSHIP COUNCIL

##### 19 TAC §§1.199 - 1.205

The Texas Higher Education Coordinating Board (Coordinating Board) adopts repeal of Title 19, Part 1, Chapter 1, Subchapter Q, §§1.199 - 1.205, Community and Technical College Leadership Council, without changes to the proposed text as published in the October 11, 2024, issue of the *Texas Register* (49 TexReg 8277). The rules will not be republished.

The repeal eliminates the subchapter and the committee itself, that was set to be abolished no later than October 31, 2021, and which no longer meets.

No comments were received regarding the adoption of the repeal.

The repeal is adopted under Texas Education Code, Section 61.027, which provides the Coordinating Board with the authority to adopt and publish rules in accordance with Texas Government Code, Chapter 2001.

The adopted repeal affects Texas Administrative Code, Title 19, Part 1, Chapter 1, Subchapter Q.

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

Filed with the Office of the Secretary of State on January 24, 2025.

TRD-202500256

Nichole Bunker-Henderson

General Counsel

Texas Higher Education Coordinating Board

Effective date: February 13, 2025

Proposal publication date: October 11, 2024

For further information, please call: (512) 427-6344



## SUBCHAPTER R. UNDERGRADUATE EDUCATION ADVISORY COMMITTEE

### 19 TAC §§1.206 - 1.212

The Texas Higher Education Coordinating Board (Coordinating Board) adopts repeal of Title 19, Part 1, Chapter 1, Subchapter R, §§1.206 - 1.212, Undergraduate Education Advisory Committee, without changes to the proposed text as published in the October 11, 2024, issue of the *Texas Register* (49 TexReg 8277). The rules will not be republished.

The repeal will eliminate the subchapter and the committee itself, which was set to be abolished no later than October 31, 2021, and which no longer meets.

No comments were received regarding the adoption of the repeal.

The repeal is adopted under Texas Education Code, Section 61.027, which provides the Coordinating Board with the authority to adopt and publish rules in accordance with Texas Government Code, Chapter 2001.

The adopted repeal affects Texas Administrative Code, Title 19, Part 1, Chapter 1, Subchapter R.

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

Filed with the Office of the Secretary of State on January 24, 2025.

TRD-202500257

Nichole Bunker-Henderson

General Counsel

Texas Higher Education Coordinating Board

Effective date: February 13, 2025

Proposal publication date: October 11, 2024

For further information, please call: (512) 427-6182



## SUBCHAPTER BB. TEXAS APPLICATION FOR STATE FINANCIAL AID ADVISORY COMMITTEE

### 19 TAC §§1.9100 - 1.9106

The Texas Higher Education Coordinating Board (Coordinating Board) adopts repeal of Title 19, Part 1, Chapter 1, Subchapter BB, §§1.9100 - 1.9106, Texas Application for State Financial Aid Advisory Committee, without changes to the proposed text as published in the October 11, 2024, issue of the *Texas Register* (49 TexReg 8278). The rules will not be republished.

The repeal eliminates the subchapter and the committee itself, which was set to be abolished no later than January 1, 2023, and which has already fulfilled its stated mission of providing a report to the Board.

No comments were received regarding the adoption of the repeal.

The adopted repeal affects Texas Administrative Code, Title 19, Part 1, Chapter 1, Subchapter BB.

The repeal is adopted under Texas Education Code, Section 61.07762, which provides the Coordinating Board with the authority to adopt and publish rules related to the Texas Application for State Financial Aid in accordance with Texas Government Code, Chapter 2001.

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

Filed with the Office of the Secretary of State on January 24, 2025.

TRD-202500251

Nichole Bunker-Henderson

General Counsel

Texas Higher Education Coordinating Board

Effective date: February 13, 2025

Proposal publication date: October 11, 2024

For further information, please call: (512) 427-6365



## SUBCHAPTER DD. TITLE IX TRAINING ADVISORY COMMITTEE

### 19 TAC §§1.9531 - 1.9536

The Texas Higher Education Coordinating Board (Coordinating Board) adopts repeal of Title 19, Part 1, Chapter 1, Subchapter DD, §§1.9531 - 1.9536, Title IX Training Advisory Committee, without changes to the proposed text as published in the October 11, 2024, issue of the *Texas Register* (49 TexReg 8279). The rules will not be republished.

The repeal eliminates the subchapter and the committee itself, which was set to be abolished no later than November 1, 2023, and which has fulfilled its stated mission of creating Title IX training slides.

No comments were received regarding the adoption of the repeal.

The repeal is adopted under Texas Education Code, Section 61.027, which provides the Coordinating Board with the authority to adopt and publish rules in accordance with Texas Government Code, Chapter 2001.

The adopted repeal affects Texas Administrative Code, Title 19, Part 1, Chapter 1, Subchapter DD.

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

Filed with the Office of the Secretary of State on January 24, 2025.

TRD-202500252

Nichole Bunker-Henderson

General Counsel

Texas Higher Education Coordinating Board

Effective date: February 13, 2025

Proposal publication date: October 11, 2024

For further information, please call: (512) 427-6182



## SUBCHAPTER EE. STUDY AND REPORT ON CORE CURRICULUM ADVISORY COMMITTEE

### 19 TAC §§1.9541 - 1.9546

The Texas Higher Education Coordinating Board (Coordinating Board) adopts repeal of Title 19, Part 1, Chapter 1, Subchapter EE, §§1.9541 - 1.9546, Study and Report on Core Curriculum Advisory Committee, without changes to the proposed text as published in the October 11, 2024, issue of the *Texas Register* (49 TexReg 8279). The rules will not be republished.

The repeal eliminates the subchapter and the committee itself, which was set to be abolished no later than September 1, 2021, and which has fulfilled its stated mission of providing a report on the transfer of core curriculum course credits.

No comments were received regarding the adoption of the repeal.

The repeal is adopted under Texas Education Code, Section 61.027, which provides the Coordinating Board with the authority to adopt and publish rules in accordance with Texas Government Code, Chapter 2001.

The adopted repeal affects Texas Administrative Code, Title 19, Part 1, Chapter 1, Subchapter EE.

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

Filed with the Office of the Secretary of State on January 24, 2025.

TRD-202500253

Nichole Bunker-Henderson

General Counsel

Texas Higher Education Coordinating Board

Effective date: February 13, 2025

Proposal publication date: October 11, 2024

For further information, please call: (512) 427-6182



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

### SUBCHAPTER A. GENERAL PROVISIONS

#### 19 TAC §4.5

The Texas Higher Education Coordinating Board (Coordinating Board) adopts repeal of Title 19, Part 1, Chapter 4, Subchapter A, §4.5. Common Calendar, without changes to the proposed text as published in the October 11, 2024, issue of the *Texas Register* (49 TexReg 8280). The rule will not be republished.

The Coordinating Board does not have statutory authority to require an institution to seek approval by the agency if its academic calendar begins or ends outside of a given date range. The Coordinating Board has also not been able to identify any reporting or data that would be impacted by the repeal since the student census date is set by statute and other reporting deadlines are outlined in alternate requirements.

No comments were received regarding the adoption of the repeal.

The repeal is adopted under Texas Education Code, Section 61.051, which provides the Coordinating Board with authority to coordinate institutions of higher education in Texas.

The adopted repeal affects Texas Administrative Code, Chapter 4, Subchapter A, §4.5.

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

Filed with the Office of the Secretary of State on January 24, 2025.

TRD-202500268

Nichole Bunker-Henderson

General Counsel

Texas Higher Education Coordinating Board

Effective date: February 13, 2025

Proposal publication date: October 11, 2024

For further information, please call: (512) 427-6182



#### 19 TAC §4.9

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments to Title 19, Part 1, Chapter 4, Subchapter A, §4.9., Limitations on the Number of Courses that May be Dropped Under Certain Circumstances by Undergraduate Students, without changes to the proposed text as published in the November 15, 2024, issue of the *Texas Register* (49 TexReg 9177). The rule will not be republished.

The adopted amendments include a re-organization of some subsections for clarity, and guidelines for institutions regarding statutory requirements for allowing a student to drop six or more courses. The adopted amendments also include a provision requiring an institution to maintain an appeals process where required by the Americans with Disabilities Act.

The following comments were received regarding the adoption of the amendments.

Comment: From an individual citizen expressing support for provisions under §4.9(a)(3)(A).

Response: The Coordinating Board thanks the individual for their comment.

Comment: From the University of Texas at Dallas, requesting clarification that exceptions related to a change in the student's work schedule beyond their control are still permissible under the individual institution's policy.

Response: The Coordinating Board thanks the institution for its comment. The provision in §4.9(a)(3)(F) provides institutions with flexibility to determine good cause through institutional policy in addition to statutory requirements. Additional optional provisions were removed from the rule text to provide clear direction for institutions on what is required to be considered good cause.

The amendments are adopted under Texas Education Code, Section 51.907(e), which directs the Coordinating Board to adopt rules under which an institution shall permit a student to drop more than six courses.

The adopted amendments affect Texas Education Code, Section 51.907.

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

Filed with the Office of the Secretary of State on January 24, 2025.

TRD-202500269

Nichole Bunker-Henderson  
General Counsel

Texas Higher Education Coordinating Board  
Effective date: February 13, 2025

Proposal publication date: November 15, 2024

For further information, please call: (512) 427-6182



## CHAPTER 6. HEALTH EDUCATION, TRAINING, AND RESEARCH FUNDS SUBCHAPTER C. TOBACCO LAWSUIT SETTLEMENT FUNDS

### 19 TAC §6.74

The Texas Higher Education Coordinating Board (Coordinating Board) adopts repeal of Title 19, Part 1, Chapter 6, Subchapter C, §6.74, Minority Health Research and Education Grant Program, without changes to the proposed text as published in the October 11, 2024, issue of the *Texas Register* (49 TexReg 8281). The rule will not be republished.

This repeal improves organization and consistency for Coordinating Board grant program rules overall, and improves rules for the application, review, and awarding of funds for the Minority Health Research and Education Grant Program. The Coordinating Board adopted at its October 2024 Board meeting new rules governing the program in Chapter 10, Subchapter J.

No comments were received regarding the adoption of the repeal.

The repeal is adopted under Texas Education Code, Sections 63.201 - 63.203, which grants the Coordinating Board with authority to adopt rules to administer the grant program.

The adopted repeal affects Texas Education Code, Sections 63.102 - 63.203.

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

Filed with the Office of the Secretary of State on January 24, 2025.

TRD-202500270

Nichole Bunker-Henderson  
General Counsel

Texas Higher Education Coordinating Board  
Effective date: February 13, 2025

Proposal publication date: October 11, 2024

For further information, please call: (512) 427-6182



## CHAPTER 9. PROGRAM DEVELOPMENT IN PUBLIC TWO-YEAR COLLEGES SUBCHAPTER E. CERTIFICATE AND ASSOCIATE DEGREE PROGRAMS

### 19 TAC §§9.91 - 9.96

The Texas Higher Education Coordinating Board (Coordinating Board) adopts repeal of Title 19, Part 1, Chapter 9, Subchapter E, §§9.91 - 9.96, Certificate and Associate Degree Programs, without changes to the proposed text as published in the November 15, 2024, issue of the *Texas Register* (49 TexReg 9179). The rules will not be republished.

The repeal eliminates the subchapter which is superseded by program approval rules adopted by the Coordinating Board in July 2024 that are now in Chapter 2 of this title.

The Coordinating Board is required to review and approve requests for all new certificate and degree program requests offered in the state of Texas and has the authority to adopt, amend, and repeal rules for that purpose.

No comments were received regarding the adoption of the repeal.

The repeal is adopted under Texas Education Code, Section 61.0512, which provides the Coordinating Board with the authority to approve new degree and certificate programs.

The adopted repeal affects Texas Education Code, Section 61.0512.

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

Filed with the Office of the Secretary of State on January 24, 2025.

TRD-202500258

Nichole Bunker-Henderson

General Counsel

Texas Higher Education Coordinating Board

Effective date: February 13, 2025

Proposal publication date: November 15, 2024

For further information, please call: (512) 427-6182



## SUBCHAPTER F. WORKFORCE CONTINUING EDUCATION COURSES

### 19 TAC §§9.111 - 9.118

The Texas Higher Education Coordinating Board (Coordinating Board) adopts repeal of Title 19, Part 1, Chapter 9, Subchapter F, §§9.111 - 9.118, Workforce Continuing Education Courses, without changes to the proposed text as published in the November 15, 2024, issue of the *Texas Register* (49 TexReg 9180). The rules will not be republished.

The repeal eliminates the subchapter which is superseded by program approval rules adopted by the Coordinating Board in July 2024 that are now in Chapter 2 of this title.

The Coordinating Board is authorized to review and approve requests for workforce continuing education courses offered in the state of Texas and has the authority to adopt, amend, and repeal rules for that purpose.

No comments were received regarding the adoption of the repeal.

The repeal is adopted under Texas Education Code, Section 130.001(b)(3), which provides the Coordinating Board with the authority to adopt standards for the operation of a college, and Section 61.0512, which provides the Coordinating Board with the authority to approve new degree and certificate programs.

The adopted repeal affects Texas Education Code, Sections 130.001(b)(3) and 61.0512.

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

Filed with the Office of the Secretary of State on January 24, 2025.

TRD-202500259

Nichole Bunker-Henderson

General Counsel

Texas Higher Education Coordinating Board

Effective date: February 13, 2025

Proposal publication date: November 15, 2024

For further information, please call: (512) 427-6182



## SUBCHAPTER I. DISTANCE EDUCATION

### 19 TAC §§9.161 - 9.163

The Texas Higher Education Coordinating Board (Coordinating Board) adopts repeal of Title 19, Part 1, Chapter 9, Subchapter I, §§9.161- 9.163, Distance Education, without changes to the proposed text as published in the November 15, 2024, issue of the *Texas Register* (49 TexReg 9181). The rules will not be republished.

The repeal eliminates the subchapter which is superseded by program approval rules adopted by the Coordinating Board in July 2024 that are now in Chapter 2 of this title.

The Coordinating Board is required to review and approve requests for all Distance Education degree program requests offered in the state of Texas and has the authority to adopt, amend, and repeal rules for that purpose.

No comments were received regarding the adoption of the repeal.

The repeal is adopted under Texas Education Code, Section 61.0512(g), which provides the Coordinating Board with the authority to approve distance education offered for credit.

The adopted repeal affects Texas Education Code, Section 61.0512(g).

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

Filed with the Office of the Secretary of State on January 24, 2025.

TRD-202500260

Nichole Bunker-Henderson

General Counsel

Texas Higher Education Coordinating Board

Effective date: February 13, 2025

Proposal publication date: November 15, 2024

For further information, please call: (512) 427-6182



## CHAPTER 10. GRANT PROGRAMS SUBCHAPTER C. STATEWIDE PRECEPTORSHIP GRANT PROGRAM

### 19 TAC §§10.70 - 10.78

The Texas Higher Education Coordinating Board (Coordinating Board) adopts new rules in Title 19, Part 1, Chapter 10, Subchapter C, §10.72 and §10.76, Statewide Preceptorship Grant Program, with changes to the proposed text as published in the October 11, 2024, issue of the *Texas Register* (49 TexReg 8282). The rules will be republished. Sections 10.70, 10.71, 10.73 - 10.75, 10.77 and 10.78 are adopted without changes and will not be republished.

The new section codifies in rule Coordinating Board processes and procedures for administering the grant program. The Coordinating Board used negotiated rulemaking to develop the rules. The Coordinating Board will make reports of negotiated rulemaking committees available upon request.

Rule 10.70, Purpose, establishes the purpose of the new rule is to administer the Statewide Preceptorship Program.

Rule 10.71, Authority, identifies Texas Education Code, §58.006, as the authorizing statute for the rules.

Rule 10.72, Definitions, provides definitions for words and terms used in the rules.

Rule 10.73, Eligibility, establishes eligibility criteria to apply for and receive funding under the Statewide Preceptorship Program.

Rule 10.74, Application Process, lays out the application requirements. This section limits each eligible entity to one application and limits participation to students interested in a primary care career.

Rule 10.75, Evaluation, establishes the minimum evaluation criteria an applicant must meet to be considered for the grant award. This includes limiting participation to students interested in a primary care career and supporting student participation in preceptorship programs in internal medicine, family medicine, and general pediatrics.

Rule 10.76, Grant Awards, explains the amount of funding available to the grant program is dependent on legislative appropriations for the biennium and describes agency processes for awarding funds.

Rule 10.77, Reporting, establishes reporting requirements for grantees. A grantee is required to submit narrative and expenditure reports within the deadlines and addressing the criteria set forth in the Request for Application.

Rule 10.78, Additional Requirements, provides additional requirements for the return of unexpected funds to the Coordinating Board.

Subsequent to the posting of the rules in the *Texas Register*, the following changes are incorporated into the adopted rules.

Section 10.72, Definitions, is amended to include definitions for General Internal Medicine and General Pediatrics.

Section 10.76, Grant Awards, is amended to ensure consistent language with §10.73, Eligibility.

The following comments were received regarding the adoption of the new rules.

Comment regarding §10.72, Definitions, from Texas Medical Association (TMA) and the Texas Pediatric Society (TPS): TMA recommended including the following definition for General Internal Medicine, and both TMA and TPS recommended including the following definition for General Pediatrics.

General Internal Medicine--Primary care general internal medicine in which the internal medicine physician cares for patients longitudinally, throughout their health journey and provides preventive, acute, and chronic care, most often in the ambulatory setting. General Pediatrics--Primary care pediatrics encompasses comprehensive care across the life cycle, from infancy to young adulthood. Health supervision is included, along with a focus on prevention of physical and mental health conditions; anticipatory guidance and promotion of wellness including mental health and monitoring physical, cognitive, and social growth and development; and age-appropriate screening for health promotion and disease prevention.

Response: The Coordinating Board agrees with the recommendation and the definitions have been included in the adopted rule text.

Comments regarding §10.74, Application Process, and §10.75, Evaluation, from the Texas Medical Association (TMA) and the Texas Pediatric Society: Both TPS and TMA recommended removing the term "documented" from §10.74(b) and §10.75(b)(1) with the rationale that requiring formal documentation is inconsistent with statutory requirements. TPS recommended replacing the term "documented" with "expressed,"

Response: The Coordinating Board thanks TPS and TMA for the comments. Statute requires that a student indicate interest in primary care, and for audit and reporting purposes, institutions should have some way of documenting that indicated interest. The Coordinating Board understands that the mechanisms used to document interest will likely vary by institution.

Comment regarding §10.76, Grant Awards, from the Texas Medical Association (TMA) and the Texas Pediatric Society: Recommended replacing the term "institution" in §10.76(f) to eliminate concerns that the term would be misinterpreted.

Response: The Coordinating Board agrees with the recommendation and has replaced the term "institution" with "entity" to be consistent with §10.73, Eligibility.

Comment regarding §10.76, Grant Awards from the Texas Pediatric Society (TPS): Request clarity on whether the language in §10.76(c), "The Commissioner of Higher Education may negotiate or adjust a grantee award to best fulfill the purpose of the RFA," includes adjusting awards between grantees and specialties to meet the current need of the programs.

Response: The Coordinating Board thanks TPS for its comment. Parameters for award adjustments would typically include allocation and specificity of requirements in the RFA. Additional details on award adjustments will be outlined through the RFA process.

Comment regarding §10.77, Reporting, from the Texas Pediatric Society (TPS): TPS submitted recommended data collection that may address reporting requirements.

Response: The Coordinating Board thanks TPS for its comment and will adjust language related to reporting requirements in the request for applications (RFA), as needed. Further, the Coordinating Board modified the language in §10.77(a)(4) to provide more flexibility in the RFA in terms of what data will need to be collected for reporting.

The new sections are adopted under Texas Education Code, Section 58.006, which provides the Coordinating Board with the authority to administer the Statewide Preceptorship Program.

The adopted new sections affect Texas Education Code, Section 58.006.

#### *§10.72. Definitions.*

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

- (1) Board--The governing body of the agency known as the Texas Higher Education Coordinating Board.
- (2) Commissioner--The Texas Commissioner of Higher Education.
- (3) Coordinating Board--The agency known as the Texas Higher Education Coordinating Board, including agency staff.
- (4) General Internal Medicine--Primary care general internal medicine in which the internal medicine physician cares for patients

longitudinally, throughout their health journey and provides preventive, acute, and chronic care, most often in the ambulatory setting.

(5) General Pediatrics--Primary care pediatrics encompasses comprehensive care across the life cycle, from infancy to young adulthood. Health supervision is included, along with a focus on prevention of physical and mental health conditions; anticipatory guidance and promotion of wellness including mental health and monitoring physical, cognitive, and social growth and development; and age-appropriate screening for health promotion and disease prevention.

(6) Medical School--An eligible medical institution as identified in Texas Education Code, chapter 61.501(1), and the school of osteopathic medicine at the University of the Incarnate Word, as authorized by Texas Education Code, §58.006(d).

(7) Preceptor--A skilled and experienced physician who serves as a mentor to medical students in accordance with the terms and conditions of the Request for Application (RFA).

(8) Request for Application (RFA)--The official document issued by the Coordinating Board to solicit applicants for an award of available grant funds.

§10.76. *Grant Awards.*

(a) The amount of funding available to the program is dependent on the legislative appropriation for the program for each biennial state budget. The Coordinating Board will provide award levels and an estimated number of awards in the RFA.

(b) Program awards shall be subject to approval pursuant to §1.16, of this title (relating to Contract, Including Grants, for Materials and/or Services).

(c) The Commissioner of Higher Education may negotiate or adjust a grantee award to best fulfill the purpose of the RFA.

(d) The Coordinating Board shall not disburse any awarded funds until the Notice of Grant Award (NOGA) has been fully executed and, if applicable, the institution has filed and received acknowledgement of the Disclosure of Interested Parties, as described in the RFA or until the institution has filed and obtained Coordinating Board approval of its periodic expenditure reports for payment.

(e) The Coordinating Board shall set forth the determination of the allowability of administrative costs in the RFA unless otherwise agreed in writing by the Commissioner and Grantee.

(f) An entity shall use a grant award to support the preceptorship program as described in the RFA and these rules.

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

Filed with the Office of the Secretary of State on January 24, 2025.

TRD-202500261  
Nichole Bunker-Henderson  
General Counsel  
Texas Higher Education Coordinating Board  
Effective date: February 13, 2025  
Proposal publication date: October 11, 2024  
For further information, please call: (512) 427-6182



## SUBCHAPTER D. RURAL RESIDENT PHYSICIAN GRANT PROGRAM

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amending the subchapter title of Title 19, Part 1, Chapter 10, Subchapter D, Rural Resident Physician Grant Program, without changes to the proposed text as published in the December 13, 2024, issue of the *Texas Register* (49 TexReg 10093). The subchapter title will not be republished.

The adopted amendment corrects the misspelling of "Physician" in the subchapter title.

No comments were received regarding the adoption of the amendment.

The amendment is adopted under Texas Education Code, Section 58A.081, which provides the Coordinating Board with the authority to administer the Rural Resident Physician Grant Program and adopt program rules.

The adopted amendment affects Texas Education Code, Section 58A.081.

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

Filed with the Office of the Secretary of State on January 17, 2025.

TRD-202500155  
Nichole Bunker-Henderson  
General Counsel  
Texas Higher Education Coordinating Board  
Effective date: February 6, 2025  
Proposal publication date: December 13, 2024  
For further information, please call: (512) 427-6182



## CHAPTER 14. RESEARCH FUNDING PROGRAMS

The Texas Higher Education Coordinating Board (Coordinating Board) adopts repeal of Title 19, Part 1, Chapter 14, , §14.1 and §14.2, Provisions; §§14.11 - 14.13, Norman Hackerman Advanced Research Program; , §§14.31 - 14.33, Technology Program; §§14.51 - 14.53, Development and Transfer Program; §§14.72 - 14.79, Administration of the research Funding Programs; and, §§14.91 - 14.95, Grants Program for High School Teachers, without changes to the proposed text as published in the October 11, 2024, issue of the *Texas Register* (49 TexReg 8284). The rules will not be republished.

The repeal of Chapter 14 eliminates unnecessary rules governing unfunded research funding programs.

The Coordinating Board adopts the repeal of Chapter 14 as part of an effort to update agency rules. It is necessary to eliminate the rules in Chapter 14, Subchapters A - F, because the Legislature has not funded the research funding programs that the rules govern for several biennia. Therefore, the programs are non-operational, and the rules that govern these programs should be repealed.

No comments were received regarding the adoption of the repeal.

## SUBCHAPTER A. GENERAL PROVISIONS

### 19 TAC §14.1, §14.2

The repeal is adopted under Texas Education Code, Section 61.027, which provides the Coordinating Board with the authority to adopt and publish rules in accordance with Texas Government Code, Chapter 2001.

The adopted repeal affects Texas Administrative Code, Part 1, Chapter 14, Subchapter A, §14.1 and §14.2.

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

Filed with the Office of the Secretary of State on January 24, 2025.

TRD-202500262

Nichole Bunker-Henderson

General Counsel

Texas Higher Education Coordinating Board

Effective date: February 13, 2025

Proposal publication date: October 11, 2024

For further information, please call: (512) 427-6182



## SUBCHAPTER B. NORMAN HACKERMAN ADVANCED RESEARCH PROGRAM

### 19 TAC §§14.11 - 14.13

The repeal is adopted under Texas Education Code, Section 61.027, which provides the Coordinating Board with the authority to adopt and publish rules in accordance with Texas Government Code, Chapter 2001.

The adopted repeal affects Texas Administrative Code, Part 1, Chapter 14, Subchapter B, §§14.11 - 14.13.

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

Filed with the Office of the Secretary of State on January 24, 2025.

TRD-202500263

Nichole Bunker-Henderson

General Counsel

Texas Higher Education Coordinating Board

Effective date: February 13, 2025

Proposal publication date: October 11, 2024

For further information, please call: (512) 427-6182



## SUBCHAPTER C. ADVANCED TECHNOLOGY PROGRAM

### 19 TAC §§14.31 - 14.33

The repeal is adopted under Texas Education Code, Section 61.027, which provides the Coordinating Board with the authority to adopt and publish rules in accordance with Texas Government Code, Chapter 2001.

The adopted repeal affects Texas Administrative Code, Part 1, Chapter 14, Subchapter C, §§14.31 - 14.33.

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

Filed with the Office of the Secretary of State on January 24, 2025.

TRD-202500264

Nichole Bunker-Henderson

General Counsel

Texas Higher Education Coordinating Board

Effective date: February 13, 2025

Proposal publication date: October 11, 2024

For further information, please call: (512) 427-6182



## SUBCHAPTER D. TECHNOLOGY DEVELOPMENT AND TRANSFER PROGRAM

### 19 TAC §§14.51 - 14.53

The repeal is adopted under Texas Education Code, Section 61.027, which provides the Coordinating Board with the authority to adopt and publish rules in accordance with Texas Government Code, Chapter 2001.

The adopted repeal affects Texas Administrative Code, Part 1, Chapter 14, Subchapter D, §§14.51 - 14.53.

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

Filed with the Office of the Secretary of State on January 24, 2025.

TRD-202500265

Nichole Bunker-Henderson

General Counsel

Texas Higher Education Coordinating Board

Effective date: February 13, 2025

Proposal publication date: October 11, 2024

For further information, please call: (512) 427-6182



## SUBCHAPTER E. PROCEDURAL ADMINISTRATION OF THE RESEARCH FUNDING PROGRAMS

### 19 TAC §§14.72 - 14.79

The repeal is adopted under Texas Education Code, Section 61.027, which provides the Coordinating Board with the authority to adopt and publish rules in accordance with Texas Government Code, Chapter 2001.

The adopted repeal affects Texas Administrative Code, Part 1, Chapter 14, Subchapter E, §§14.72 - 14.79.

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



Filed with the Office of the Secretary of State on January 24, 2025.

TRD-202500266

Nichole Bunker-Henderson

General Counsel

Texas Higher Education Coordinating Board

Effective date: February 13, 2025

Proposal publication date: October 11, 2024

For further information, please call: (512) 427-6182



## SUBCHAPTER F. SUPPLEMENTAL GRANTS PROGRAM FOR HIGH SCHOOL TEACHERS

### 19 TAC §§14.91 - 14.95

The repeal is adopted under Texas Education Code, Section 61.027, which provides the Coordinating Board with the authority to adopt and publish rules in accordance with Texas Government Code, Chapter 2001.

The adopted repeal affects Texas Administrative Code, Part 1, Chapter 14, Subchapter F, §§14.91 - 14.95.

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

Filed with the Office of the Secretary of State on January 24, 2025.

TRD-202500267

Nichole Bunker-Henderson

General Counsel

Texas Higher Education Coordinating Board

Effective date: February 13, 2025

Proposal publication date: October 11, 2024

For further information, please call: (512) 427-6182



## CHAPTER 22. STUDENT FINANCIAL AID PROGRAMS

### SUBCHAPTER A. GENERAL PROVISIONS

#### 19 TAC §22.7

The Texas Higher Education Coordinating Board (Coordinating Board) adopts repeal of Title 19, Part 1, Chapter 22, Subchapter A, §22.7. Dissemination of Information and Rules, without changes to the proposed text as published in the October 11, 2024, issue of the *Texas Register* (49 TexReg 8286). The rule will not be republished.

This repeal eliminates an unnecessary provision in the General Provisions relating to many of the Coordinating Board's financial aid programs. The Coordinating Board is authorized to adopt rules to effectuate the provisions of Texas Education Code, Chapter 61, including §61.051(a)(5) regarding the administration of financial aid programs.

Rule 22.7 is repealed. The rule asserts the Coordinating Board's responsibility for publishing and disseminating general information and program rules for the programs included in Texas Ad-

ministrative Code, Chapter 22. Outreach to relevant stakeholders is crucial for the success of financial aid programs, but the Coordinating Board has determined that it can continue to accomplish this task without the rule, which is otherwise unnecessary for the administration of the programs in this chapter. Moreover, the rule could be construed as requiring the Coordinating Board to disseminate information regarding programs in the chapter that are not currently active, which could cause confusion for institutional partners and the public. Its elimination will not affect Coordinating Board operations.

No comments were received regarding the adoption of the repeal.

The repeal is adopted under Texas Education Code, Section 61.051(a)(5), which provides the Coordinating Board with the authority to administer state financial aid programs.

The adopted repeal affects Texas Administrative Code, Title 19, Part 1, Chapter 22.

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

Filed with the Office of the Secretary of State on January 24, 2025.

TRD-202500271

Nichole Bunker-Henderson

General Counsel

Texas Higher Education Coordinating Board

Effective date: February 13, 2025

Proposal publication date: October 11, 2024

For further information, please call: : (512) 427-6365



## SUBCHAPTER F. MATCHING SCHOLARSHIPS TO RETAIN STUDENTS IN TEXAS

### 19 TAC §§22.113 - 22.115

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments to Title 19, Part 1, Chapter 22, Subchapter F, §§22.113 - 22.115, Matching Scholarships to Retain Students in Texas, without changes to the proposed text as published in the October 11, 2024, issue of the *Texas Register* (49 TexReg 8286). The rules will not be republished.

This amendment makes nonsubstantive changes to rule language to conform with other program rules in the chapter. The Coordinating Board is authorized to adopt rules as necessary by Texas Education Code, §61.087.

Rules 22.113, 22.114, and 22.115 are amended to make nonsubstantive changes to rule language. Citations to General Provisions in Chapter 22 are added to improve rule clarity and navigability, and use of the term "award" is replaced by "scholarship" to conform with rule language changes being made throughout the chapter. There are no practical changes to the administration of this subchapter.

The following comment was received regarding the adoption of the amendments.

Comment: Austin Community College commented to note that use of the term "scholarship" in this and other subchapters can cause confusion with business operations, as they can be

treated differently from grants. The commenter notes that a clearer distinction between grants and scholarships would be helpful.

Response: The Coordinating Board appreciates the comment. The lack of industry-wide accepted definitions for "grant" and "scholarship" can lead to overlap in how these terms are understood, and the Coordinating Board acknowledges the confusion stemming from that. The use of "scholarship" in this subchapter, however, aligns with the language used in Texas Education Code, §61.087. Coordinating Board rules cannot supersede statute. Accordingly, the Coordinating Board takes no action on this comment.

The amendments are adopted under Texas Education Code, Section 61.087, which provides the Coordinating Board with the authority to adopt rules regarding matching scholarships to retain students in Texas.

The adopted amendments affect Texas Administrative Code, Title 19, Part 1, Chapter 22, Subchapter F.

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

Filed with the Office of the Secretary of State on January 24, 2025.

TRD-202500272

Nichole Bunker-Henderson

General Counsel

Texas Higher Education Coordinating Board

Effective date: May 15, 2025

Proposal publication date: October 11, 2024

For further information, please call: (512) 427-6365



## SUBCHAPTER G. TEXAS COLLEGE WORK-STUDY PROGRAM

### 19 TAC §§22.128 - 22.131, 22.133, 22.135

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments to, Title 19, Part 1, Chapter 22, Subchapter G, §22.130, Texas College Work-Study Program, with changes to the proposed text as published in the October 11, 2024, issue of the *Texas Register* (49 TexReg 8287). The rules will be republished. Sections 22.128, 22.129, 22.131, 22.133, and 22.135 are adopted without changes and will not be republished.

These amendments align rule language and terminology, clarify potential ambiguities, and more clearly specify rule applicability to improve the clarity and navigability of the program rules. The Coordinating Board is authorized to adopt rules related to the Texas College Work-Study (TCWS) Program by Texas Education Code (TEC), §§56.073 and 56.077.

Included throughout the subchapter are a number of nonsubstantive updates to rule language. References to the Coordinating Board as an agency, for example, previously written as "Board" or "Board staff," are revised to "Coordinating Board" to ensure the distinction is clear between the agency and its governing board.

Rule 22.128, Definitions, is amended to eliminate unnecessary or redundant definitions. "Encumbered funds" is not used in this subchapter and is therefore unnecessary; additionally, "encumber" is already defined in the chapter's General Provisions. The terms "forecast" and "institution of higher education" have both been consolidated into the chapter's General Provisions.

Rule 22.129, Eligible Institutions, is amended to more closely align institutional eligibility with defined terms, specify the circumstances under which particular eligibility requirements apply, and simplify particular administrative requirements. The section is retitled to conform with rule naming conventions used throughout the chapter. Nonsubstantive amendments to subsection (a) are intended to align with defined terms in §22.1, and the reference to theological or religious seminaries is also removed from the definition of eligible institutions. Subsections (c) and (d) are amended, first, to clarify that the requirements apply to institutions' participation in the TCWS program as employers. Paragraph (d)(3) relates to other participating entities, not the institution, and therefore is relocated to §22.131(b). Subsection (e) was determined to be outdated and unnecessary to the administration of the program and is therefore eliminated.

Rule 22.130, Eligible Students, is amended by aligning eligibility criteria more closely with defined terms and adding citations to rules located in the chapter's General Provisions. The section is retitled to conform with rule naming conventions used throughout the chapter. Subsection (b) is clarified by adding "or" at the end of Paragraph (1) to clarify that either condition would disqualify a student from eligibility for the program.

Rule 22.131, Eligible Off-Campus Employers, is amended to clarify aspects of non-institutional employer eligibility. Subsection (b) is the reconstituted §22.129(d)(3). Subsection (c) is reorganized to clarify the logic associated with paragraphs (4) and (5) -- non-institutional employers must meet one of the two conditions. Subsection (c) is eliminated due to being duplicative with §22.129(c)(4).

Rule 22.133, Allocation of Funds, is amended by removing unnecessary provisions relating to allocations for Fiscal Year 2023 and prior. All other changes are nonsubstantive; allocations for this program are unchanged.

Rule 23.135, Disbursement of Funds, is amended with nonsubstantive changes to rule language.

Subsequent to the posting of the rules in the *Texas Register*, the following changes were incorporated into the adopted rule.

Section 22.130(b)(2) is removed, consistent with the similar revisions to 22.129 (a)(1). These revisions, eliminating references to theological seminaries and religious degree programs, are for the purpose of alignment with legal determinations stemming from recent federal court decisions.

No comments were received regarding the adoption of the amendments.

The amendments are adopted under Texas Education Code, Section 56.073, which provides the Coordinating Board with the authority to adopt rules related to the Texas College Work-Study Program.

The adopted amendment affects Texas Administrative Code, Title 19, Part 1, Chapter 22.

§22.130. *Eligible Students.*

(a) To be eligible for employment in the Program a person shall:

(1) be a resident of Texas, as defined by §22.1 of this chapter (relating to Definitions);

(2) be enrolled at least half-time, as determined by the student's institution, and be seeking a degree or certificate in an eligible institution;

(3) show financial need, as defined by §22.1 of this chapter;

(4) meet applicable standards outlined in §22.3 of this chapter (relating to Student Compliance with Selective Service Registration; and

(5) if participating in the Mentorship Program, receive appropriate training and supervision as determined by the Coordinating Board.

(b) A person is not eligible to participate in the Program if the person concurrently receives an athletic scholarship.

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

Filed with the Office of the Secretary of State on January 24, 2025.

TRD-202500274

Nichole Bunker-Henderson

General Counsel

Texas Higher Education Coordinating Board

Effective date: May 15, 2025

Proposal publication date: October 11, 2024

For further information, please call: (512) 427-6365



## SUBCHAPTER I. TEXAS ARMED SERVICES SCHOLARSHIP PROGRAM

### 19 TAC §§22.163 - 22.170

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments to and new rule in Title 19, Part 1, Chapter 22, Subchapter I, §§22.163 - 22.168 and 22.170, Texas Armed Services Scholarship Program, without changes to the proposed text as published in the October 11, 2024, issue of the *Texas Register* (49 TexReg 8291). The rules will not be republished. Section 22.169 is adopted with changes and will be republished.

The amendments and new section align terminology and rule language throughout the chapter and restructure existing provisions to improve rule clarity and readability.

Included throughout the subchapter are a number of nonsubstantive updates to rule language. References to the Coordinating Board as an agency, for example, previously written as "Board" or "Board staff," are revised to "Coordinating Board" to ensure the distinction is clear between the agency and its governing board. Similarly, the word "award" is changed to the more precise "scholarship" as a noun and "offer" as a verb, to avoid potential confusion.

Rule 22.163, Authority and Purpose, is amended to add the appropriate chapter to the authority citation to conform with standards throughout the rule chapter.

Rule 22.164, Definitions, is amended by removing unnecessary or duplicative definitions. The term "award" is being treated as

mentioned above, and "institution of higher education" has been consolidated into rule §22.1. Because the definition of "institution of higher education" in rule §22.1 includes public institutions only, references to institution throughout this rule have been clarified to include "private or independent institution of higher education," which is also defined in rule §22.1.

Rule 22.165, Scholarship Amount, is amended by separating the concepts of scholarship amount and program limitations. Current subsections (c) and (d), which relate to the discontinuation of a student's eligibility for a scholarship, are being moved to the new rule §22.169. The section is retitled accordingly.

Rule 22.166, Appointment by Elected Officials, is amended by retitling the section to conform more closely with rule naming conventions used throughout the chapter and adding a header on subsection (c) to designate its purpose.

Rule 22.167, Eligible Students, is amended align more closely with the provisions of rule §22.166. Paragraph (4) is eliminated, as appointment by an elected official is a pre-condition for consideration for the scholarship. The section is retitled to conform to rule naming conventions used throughout the chapter.

Rule 22.168, Promissory Note, is amended to eliminate an unnecessary and potentially confusing phrase in paragraph (b)(2). Scholarship recipients are not required to enroll in an institution of higher education immediately after completing high school or their equivalency, so the phrase "after...equivalent" is potentially misleading. This does not represent a change in Coordinating Board policy.

Rule 22.169, Discontinuation of Eligibility, is created to specify provisions relating to discontinuation of a student's eligibility for a scholarship under the program. Subsections (a) and (b), respectively, are the reconstituted §22.165(c) and (d), with no changes.

Rule 22.170, Conversion of the Scholarship to a Loan, is amended to correct a rule citation and to eliminate paragraphs (c)(1) and (c)(2), which are not necessary and could be confusing.

The following comments were received regarding the adoption of the amendments and new rule.

Comment: Texas A&M University commented regarding rule 22.168, Promissory Note, to offer a suggestion for paragraph (b)(3)(B). Texas A&M University would like to see additional flexibility of 6-12 months in the time required for a student to seek commission outside of graduation. The institution believes this flexibility will allow students to continue to qualify for the scholarship and to seek commission outside of the university, while also fulfilling their overall military service commitment.

Response: The Coordinating Board appreciates the comment and offers the following clarification. Rule §22.170, Conversion of the Scholarship to a Loan, paragraph (b) allows recipients to provide the required documentation of military commitment within twelve months of graduation before a scholarship is converted to a loan. This provision encompasses the requested time flexibility as noted by the commentor. Accordingly, the Coordinating Board takes no action on this comment.

Comment: Texas A&M University commented regarding rule 22.169, Discontinuation of Eligibility, to offer a suggestion for paragraph (a). Texas A&M University would like to see additional language added that will provide more latitude in determining a four-year versus five-year degree program for purposes of this scholarship program.

Response: The Coordinating Board appreciates the comment and acknowledges that not all required ROTC courses count toward an official degree plan. As such, the Coordinating Board revises rule §22.169(a) to allow a student to receive a scholarship while meeting the requirement to "graduate no later than six years after the date the student first enrolls in a public or private institution of higher education in this state," as permitted by Texas Education Code Section, 61.9773.

The amendments and new section are adopted under Texas Education Code, Section 61.9774, which provides the Coordinating Board with the authority to adopt rules related to the Texas Armed Services Scholarship Program.

The adopted amendments and new section affect Texas Administrative Code, Title 19, Part 1, Chapter 22.

§22.169. *Discontinuation of Eligibility.*

(a) A student's eligibility is limited to the six years after the date the student first enrolls in an institution of higher education or private or independent institution of higher education.

(b) Notwithstanding subsection (a) of this section, a student may not receive a scholarship after having earned a baccalaureate degree or a cumulative total of 150 credit hours, including transferred hours, as verified by the student's institution of higher education or private or independent institution of higher education.

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

Filed with the Office of the Secretary of State on January 24, 2025.

TRD-202500275

Nichole Bunker-Henderson

General Counsel

Texas Higher Education Coordinating Board

Effective date: May 15, 2025

Proposal publication date: October 11, 2024

For further information, please call: (512) 427-6365



## SUBCHAPTER K. TEXAS TRANSFER GRANT PROGRAM

### 19 TAC §§22.201 - 22.210

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments to Title 19, Part 1, Chapter 22, Subchapter K, §§22.201 - 22.210, Texas Transfer Grant Program, without changes to the proposed text as published in the October 11, 2024, issue of the *Texas Register* (49 TexReg 8294). The rules will not be republished.

These amendments align rule language and terminology with rules throughout the chapter to improve rule clarity. The Coordinating Board is authorized to adopt rules related to the Texas Transfer Grant Program by the Administrative Procedures Act, Texas Government Code, §2001.003(6).

Rule 22.201, Definitions, is amended to eliminate the unused term, "encumbered funds," from the section. This term has a technical meaning but is not used in the rule.

Rule 22.202, Eligible Institutions, is amended to align the rule language with defined terms in §22.1 of this chapter and to eliminate paragraph (2)(B), which referred to approval procedures for the 2023 - 2024 academic year and is no longer needed.

Rule 22.203, Eligible Students, is amended to align eligibility criteria with defined terms and to clarify subsection (a)(3). The rules define the requirement to "have applied for any available financial aid assistance" in this and other programs as a requirement that the student to have completed the Free Application for Federal Student Aid (FAFSA) or, as needed, the Texas Application for State Financial Aid (TASFA). The amendments to the rule improve the clarity of the rule and align with current practice. The amendments to this section are conforming and should not be interpreted as changing the eligibility requirements for the program.

Rule 22.204, Satisfactory Academic Progress, is amended to specify that each institution shall calculate a student's grade point average for the purposes of meeting satisfactory academic progress in accordance with §22.10 in the chapter's General Provisions. This does not represent a change in policy.

Rule 22.205, Discontinuation of Eligibility or Non-Eligibility, is amended to correct a grammatical error and add a citation for a defined term.

Rule 22.206, Hardship Provisions, is amended to align the hardship provisions in this subchapter with equivalent sections elsewhere in the chapter. Because the Texas Transfer Grant is intended to be a two-year program for students who have already completed an associate degree, it would be nearly impossible for an eligible student to reach the 150 semester credit hour limit established in subsection (a)(4). This provision is eliminated to provide clarity around this requirement.

Rule 22.207, Priorities in Grants to Students, is amended by replacing "expected family contribution" with the new term "Student Aid Index" (no change in meaning) and updating a citation.

Rule 22.208, Grant Amounts, is amended by revising subsection (c) to align with similar provisions in other programs in this chapter.

Rule 22.209, Allocation of Funds, is amended by aligning existing rule text with defined terms. Allocations for this program are unaffected by these changes.

Rule 22.210, Disbursement of Funds, is amended by adding a citation to relevant rule within the chapter's General Provisions.

No comments were received regarding the adoption of the amendments.

The amendment is adopted under Texas Government Code, Section 2001.003(6), which provides the Coordinating Board with the authority to adopt rules related to the Texas Transfer Grant Program.

The adopted amendment affects Texas Administrative Code, Title 19, Part 1, Chapter 22.

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

Filed with the Office of the Secretary of State on January 24, 2025.

TRD-202500278

Nichole Bunker-Henderson  
General Counsel  
Texas Higher Education Coordinating Board  
Effective date: May 15, 2025  
Proposal publication date: October 11, 2024  
For further information, please call: (512) 427-6365



## SUBCHAPTER T. TEXAS FIRST SCHOLARSHIP PROGRAM

### 19 TAC §§22.550, 22.552, 22.553, 22.555

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments to Title 19, Part 1, Chapter 22, Subchapter T, §§22.550, 22.552, 22.553, and 22.555, Texas First Scholarship Program, without changes to the proposed text as published in the October 11, 2024, issue of the *Texas Register* (49 TexReg 8297). The rules will not be republished.

The amendments align rule language and usage with other programs throughout the chapter. The Coordinating Board is authorized to adopt rules related to the Texas First Scholarship by Texas Education Code, §56.227.

The subchapter is retitled to conform to naming conventions used throughout the chapter.

Rule 22.550, Authority and Purpose, is amended to remove an unnecessary citation in the purpose statement. This usage misaligns with other program rules in the chapter.

Rule 22.552, Eligible Institutions, is amended to clarify that the provisions of §22.2 in the chapter's General Provisions, relating to Timely Distribution of Funds, do not apply to the program. Texas First operates by having the Coordinating Board reimburse participating institutions for eligible students' state credits, which the institutions are required to accept. Timely disbursement of funds is not applicable to this method. Citations in this section also are amended to be to the definitions in rule, rather than statute.

Rule 22.553, Eligible Students, is amended by making nonsubstantive changes to improve rule readability. Greater detail is provided regarding the requirement in paragraph (4), for example, and citations are added in a manner that conforms to other programs in the chapter.

Rule 22.555, Scholarship Amount, is amended by making nonsubstantive changes to rule language and by clarifying subsection (c)(2) to make it easier to understand. These rule changes do not affect the operation of the program.

The following comment was received regarding the adoption of the amendments.

Comment: Austin Community College commented to note that there is no mention in the amended rules of FAFSA or TASFA completion in the program eligibility rules.

Response: The Coordinating Board appreciates the comment and offers the following clarification. The amended rule §22.553(4) states that, to be eligible for the Texas First Scholarship, a person must "meet the graduation requirement related to financial aid application, as described by Texas Education Code, §28.0256." This provision encompasses the FAFSA/TASFA completion, as noted by the commentor, and is stated more broadly because a student can meet the graduation requirement

cited in the rule by opting out of FAFSA/TASFA completion. Accordingly, the Coordinating Board takes no action on this comment.

The amendment is adopted under Texas Education Code, Section 56.227, which provides the Coordinating Board with the authority to adopt rules related to the Texas First Scholarship Program.

The adopted amendment affects Texas Administrative Code, Title 19, Part 1, Chapter 22.

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

Filed with the Office of the Secretary of State on January 24, 2025.

TRD-202500279

Nichole Bunker-Henderson

General Counsel

Texas Higher Education Coordinating Board

Effective date: May 15, 2025

Proposal publication date: October 11, 2024

For further information, please call: (512) 427-6365



## PART 2. TEXAS EDUCATION AGENCY

### CHAPTER 89. ADAPTATIONS FOR SPECIAL POPULATIONS

#### SUBCHAPTER BB. COMMISSIONER'S RULES CONCERNING STATE PLAN FOR EDUCATING EMERGENT BILINGUAL STUDENTS

### 19 TAC §§89.1201, 89.1203, 89.1205, 89.1207, 89.1210, 89.1215, 89.1220, 89.1226 - 89.1230, 89.1233, 89.1235, 89.1240, 89.1245, 89.1250, 89.1265

The Texas Education Agency (TEA) adopts amendments to §§89.1201, 89.1203, 89.1205, 89.1207, 89.1210, 89.1215, 89.1220, 89.1226 - 89.1230, 89.1233, 89.1235, 89.1240, 89.1245, 89.1250, and 89.1265, concerning the state plan for educating emergent bilingual students. The amendments to §§89.1201, 89.1203, 89.1205, 89.1210, 89.1215, 89.1220, 89.1226 - 89.1230, 89.1233, 89.1235, 89.1240, 89.1245, 89.1250, and 89.1265 are adopted without changes to the proposed text as published in the October 11, 2024 issue of the *Texas Register* (49 TexReg 8305) and will not be republished. The amendment to §89.1207 is adopted with changes to the proposed text as published in the October 11, 2024 issue of the *Texas Register* (49 TexReg 8305) and will be republished. The adopted amendments clarify terminology based on stakeholder feedback and codify current program practices and requirements. Additionally, the adopted amendment to §89.1226 aligns with recommendations from the U.S. Department of Education (USDE) Office of English Language Acquisition regarding testing accommodations.

REASONED JUSTIFICATION: Changes are adopted throughout 19 TAC Chapter 89, Adaptations for Special Populations, Subchapter BB, Commissioner's Rules Concerning State Plan for Educating Emergent Bilingual Students, to clarify terms,

including defining bilingual education to include both bilingual and English as a second language (ESL) programs; establish an acronym for the term "emergent bilingual"; replace the word "must" with the word "shall"; and refer to "home language" instead of "primary language" for alignment.

Section 89.1201 establishes the policy of the state for a student who has a home language other than English and who is identified as an emergent bilingual (EB) student. The adopted amendment to subsection (b) clarifies the goal of bilingual models to include dual language immersion (DLI) and transitional bilingual education. The adopted amendment to subsection (c) clarifies the goal of ESL program models to include content-based and pull-out.

Section 89.1203 establishes definitions. The adopted amendment clarifies terminology in paragraph (1) to include alternatives methods; aligns terminology in paragraph (3) regarding a "certified bilingual program teacher"; clarifies in paragraph (5) that the goal of the content-based language instruction is used to develop the home or partner language and English of an EB student; establishes in paragraph (6) that the two state-approved DLI program models are one-way DLI and two-way DLI; establishes in paragraph (7) that dual-language instruction includes both DLI and transitional bilingual education programs; clarifies in paragraph (9) that an ESL program includes both content-based and pull-out program models; clarifies in paragraph (10) the definition of English language proficiency standards (ELPS); adds new paragraph (12) to define "enrollment"; clarifies exit criteria for an EB student in re-numbered paragraph (13); adds new paragraph (14) to define "home language"; and deletes the definition of "primary language" to align terminology from "primary" to "home" language.

Section 89.1205 establishes required bilingual and ESL programs. The adopted amendment to subsection (f) combines existing information about what school districts are authorized to establish in addition to the required bilingual program.

Section 89.1207 establishes criteria for bilingual program exceptions and ESL program waivers. The adopted amendment integrates bilingual program exceptions and ESL waivers, eliminating the need for separate subsections on exceptions and waivers. Subsection (d)(3) includes the term "affective" to align with §89.1210(b)(1)-(3). Subsection (d) restructures existing text to further clarify application requirements and make conforming edits. Subsection (d)(3)(A) and (B) specify the application requirements for EB students in a bilingual program or an ESL program. Subsection (f) establishes criteria for the approval of bilingual exceptions and ESL waivers. Subsection (f)(2) clarifies that the three approval requirements for a bilingual exception also applies for approval of an ESL waiver.

Based on public comment, §89.1207(f), relating to approval of a bilingual exception and/or ESL waiver, has been changed at adoption to specify that the requirements and measurable targets of the action plan must be met in addition to one other existing criterion.

Section 89.1210 establishes program content and design. The adopted amendment aligns terminology.

Section 89.1215 establishes criteria for the home language survey. The adopted amendment restructures the rule to further clarify the requirements.

Section 89.1220 establishes criteria for the language proficiency assessment committee (LPAC). Based on stakeholder feedback

from educators, subsection (c) is amended to clarify that all required members of an LPAC be present to make individualized student decisions. The adopted amendment to subsection (g)(2)(B) allows the LPAC to recommend program participation based on available program models within the district for transferring EB students. Subsection (g)(2)(C) clarifies that parents have the right to begin to receive program services after previously indicating denial of services. The adopted amendment to subsection (g)(3)(A) and (B) clarifies LPAC criteria for ESL and bilingual programs rather than addressing language first and academic progress second. Additional adopted changes throughout the section clarify terminology.

Section 89.1226 establishes criteria for testing and classification of EB students. An adopted amendment in subsection (h) aligns with stakeholder feedback that an LPAC does not "determine," but instead "recommends," placement. The adopted amendment to subsection (i) incorporates rule text to clarify that EB students with parental denials are eligible to receive linguistic or non-linguistic based designated supports or accommodations on the State of Texas Assessments of Academic Readiness (STAAR®) when recommended by the LPAC or any other committee. The adopted amendment also clarifies that the designated supports or accommodations cannot prevent an EB student from meeting reclassification criteria to align with the USDE consolidated Title III audit. The adopted amendment to subsection (i)(2) clarifies the assessment criteria for reclassification.

Section 89.1227 establishes minimum requirements for the DLI program model. The adopted amendment to subsection (a) clarifies requirements.

Section 89.1228 establishes criteria for two-way DLI program model implementation. The adopted amendment to subsection (b) clarifies the three eligibility categories of students participating in a two-way DLI program model, including EB students, reclassified EB students, and non-EB students. Subsection (c)(5) is updated to align with the dual-language instruction framework.

Section 89.1229 establishes general requirements for recognition of DLI program models. The adopted amendment clarifies terminology throughout the section.

Section 89.1230 establishes criteria for eligible students with disabilities. The adopted amendment aligns terminology throughout the section.

Section 89.1233 establishes criteria for the participation of non-EB students. Based on stakeholder feedback, subsection (c) is amended to clarify program participation percentages.

Section 89.1235 establishes criteria for facilities. The adopted amendment restructures the rule to provide clarity.

Section 89.1240 establishes criteria for parental authority and responsibility. The adopted amendment restructures the rule to provide clarity.

Section 89.1245 establishes staffing and staff development. The adopted amendment clarifies terminology throughout the section.

Section 89.1250 establishes criteria for required summer school programs. An adopted amendment to subsection (c) aligns with Texas Education Code (TEC), §29.060, clarifying the required schedule for districts operating on a semester schedule as well as schedules other than semester.

Section 89.1265 establishes criteria for program evaluation. The adopted amendment clarifies and aligns terminology throughout the section.

**SUMMARY OF COMMENTS AND AGENCY RESPONSES:** The public comment period on the proposal began October 11, 2024, and ended November 12, 2024. Following is a summary of public comments received and agency responses.

**Comment:** A Texas school administrator commented in support of §89.1226(i), which adds linguistic support to all emergent bilingual students, including parent denials.

**Response:** The agency agrees.

**Comment:** The Intercultural Development Research Association (IDRA) commented in support of proposed changes to §89.1228 to expand the quality of dual language immersion programs.

**Response:** The agency agrees.

**Comment:** IDRA commented in support of the proposed amendment to §89.1229(b), noting the expansion of opportunities for currently identified emergent bilingual students to receive performance acknowledgment in bilingualism and biliteracy without having to be reclassified. IDRA also requested that the agency make corresponding changes to 19 TAC Chapter 74.

**Response:** The agency agrees in part. The comment requesting amendments to 19 TAC Chapter 74 is outside the scope of the proposed rulemaking.

**Comment:** IDRA commented in support of the proposed amendment to §89.1245(f)(1), which expands bilingual/ESL program training availability for Prekindergarten through Grade 12 staff.

**Response:** The agency agrees.

**Comment:** IDRA requested adding tightened criteria for school districts to apply for bilingual exceptions and ESL waivers in the proposed amendment to §89.1207(f), specifically requesting a requirement to meet the district's proposed action plan (as outlined in §89.1207(f)(1)(B) and (2)(B)) in addition to at least one of the other criteria.

**Response:** The agency agrees that the action plan is a critical part of a local education agency's path to teacher certification compliance. At adoption, §89.1207(f) was modified to require meeting the requirements and measurable targets of the action plan in addition to one other existing criterion for approval of a bilingual exception and/or ESL waiver.

**STATUTORY AUTHORITY.** The amendments are adopted under Texas Education Code (TEC), §29.051, which establishes the state policy regarding bilingual and special language programs; TEC, §29.052, which establishes the definitions of an emergent bilingual student and parent; TEC, §29.053, which establishes the criteria for the establishment of bilingual education and special language programs; TEC, §29.054, which establishes the criteria for exceptions; TEC, §29.055, which establishes the criteria for program content and the method of instruction; TEC, §29.056, which establishes the criteria for enrollment of students in the program; TEC, §29.0561, which establishes the criteria for the evaluation of transferred students and reenrollment procedures; TEC, §29.057, which establishes the criteria for facilities and classes of bilingual education and special language programs; TEC, §29.058, which establishes the criteria for enrollment of students who do not have limited English proficiency; TEC, §29.059, which establishes the criteria for cooperation among districts to provide bilingual education and special

language programs; TEC, §29.060, which establishes the criteria for preschool, summer school, and extended time programs; TEC, §29.061, which establishes the criteria for bilingual education and special language program teachers; TEC, §29.062, which establishes the criteria for monitoring compliance to evaluate the effectiveness of programs related to bilingual education and special language programs; TEC, §29.063, which establishes the criteria for language proficiency assessment committees; TEC, §29.064, which establishes the criteria for appeals; and TEC, §29.066, which establishes the criteria for a district's Public Education Information Management System (PEIMS) reporting requirements.

**CROSS REFERENCE TO STATUTE.** The amendments implement Texas Education Code (TEC), §§29.051, 29.052, 29.053, 29.054, 29.055, 29.056, 29.0561, 29.057, 29.058, 29.059, 29.060, 29.061, 29.062, 29.063, 29.064, and 29.066.

*§89.1207. Bilingual Program Exceptions and English as a Second Language (ESL) Program Waivers.*

(a) **Purpose.** A school district that is unable to provide a bilingual and/or an English as a second language (ESL) program as required by §89.1205(a) and (c) of this title (relating to Required Bilingual and English as a Second Language (ESL) Programs) because of an insufficient number of appropriately certified teachers shall request from the commissioner of education an exception to the bilingual program and/or a waiver for the ESL program and the approval of temporary alternative methods as defined in §89.1203(1) of this title (relating to Definitions) that align as closely as possible to the required bilingual or ESL program.

(b) **Funding.** Emergent bilingual (EB) students with parental approval for program participation under a bilingual exception or an ESL waiver will be included in the bilingual education allotment (BEA) designated for temporary alternative methods.

(c) **Duration.** The approval of a bilingual exception or an ESL waiver shall be valid only during the school year for which it was granted, which includes summer school.

(d) **Application requirements.** The bilingual exception and/or ESL waiver application shall be submitted by November 1 and shall include:

(1) a statement of the reasons the school district is unable to provide a sufficient number of appropriately certified teachers to offer the bilingual and/or ESL program with supporting documentation as described in Texas Education Code (TEC), §29.054(b)(1), (2), and (3);

(2) a description of the temporary alternative methods to meet the affective, linguistic, and cognitive needs of EB students, including the manner through which the students will be given opportunity to master the essential knowledge and skills required by Chapter 74 of this title (relating to Curriculum Requirements) to include foundation and enrichment areas, English language proficiency standards (ELPS), and college and career readiness standards (CCRS);

(3) an assurance that appropriately certified teachers available in the school district will be assigned to ensure that the affective, linguistic, and cognitive needs of EB students with beginning and intermediate levels of English proficiency are served on a priority basis by doing the following:

(A) in a bilingual program, assigning appropriately certified teachers beginning in prekindergarten followed successively by subsequent grade levels to ensure effective early literacy development; or

(B) in an ESL program, assigning appropriately certified teachers to serve students with the highest linguistic needs at any grade level;

(4) an assurance that the school district will implement a comprehensive professional development plan that:

(A) is ongoing and targets the development of the knowledge, skills, and competencies needed to serve the needs of EB students;

(B) includes the teachers who are not certified or not appropriately certified who are assigned to implement the temporary alternative methods that align closely to the required bilingual or ESL program; and

(C) may include additional teachers who work with EB students;

(5) an assurance that at least 10% of the total BEA shall be used to fund the comprehensive professional development plan required under paragraph (4) of this subsection when applying for a bilingual exception and/or an ESL waiver;

(6) an assurance that the school district will develop an action plan to ensure that the programs required under §89.1205(a) and (c) of this title will be provided the subsequent year, including its plans for recruiting an adequate number of appropriately certified teachers to eliminate the need for subsequent exception waivers and measurable targets for the subsequent year as required by TEC, §29.054(b)(4); and

(7) an assurance that the school district shall satisfy the additional reporting requirements described in §89.1265(c) of this title (relating to Program Evaluation).

(e) School district responsibilities. A school district submitting a bilingual education exception and/or an ESL waiver shall maintain written records of all documents supporting the submission and assurances listed in subsection (d) of this section, including:

(1) a description of the temporary alternative methods designed to meet the affective, linguistic, and cognitive needs of the EB students;

(2) the number of teachers for whom a bilingual exception or an ESL waiver is needed by grade level and per campus;

(3) a copy of the school district's comprehensive professional development plan;

(4) a copy of the BEA budget documenting that a minimum of 10% of the funds were used to fund the comprehensive professional development plan; and

(5) a description of the actions taken to recruit an adequate number of appropriately certified teachers.

(f) Approval of bilingual exceptions and ESL waivers. A bilingual exception and/or an ESL waiver will be granted by the commissioner if the following criteria are met for each program.

(1) For a bilingual exception, the school district meets the requirements and measurable targets of the action plan described in subsection (d)(6) of this section submitted the previous year and approved by the Texas Education Agency (TEA) and also meets one of the following criteria:

(A) meets or exceeds the state average for EB student performance on the required state assessments; or

(B) reduces by 25% the number of teachers under the bilingual exception when compared to the number of teachers under the bilingual exception the previous year.

(2) For an ESL waiver, the school district meets the requirements and measurable targets of the action plan described in subsection (d)(6) of this section submitted the previous year and approved by TEA and also meets one of the following criteria.

(A) meets or exceeds the state average for EB student performance on the required state assessments; or

(B) reduces by 25% the number of teachers under the ESL waiver when compared to the number of teachers under the ESL waiver the previous year.

(g) Denial of bilingual exceptions and ESL waivers. A school district denied a bilingual exception and/or an ESL waiver shall submit to the commissioner a detailed action plan for complying with required regulations for the following school year.

(h) Appeals. A school district denied a bilingual exception and/or an ESL waiver may appeal to the commissioner or the commissioner's designee. The decision of the commissioner or commissioner's designee is final and may not be appealed further.

(i) Special accreditation investigation. The commissioner may authorize a special accreditation investigation under TEC, §39.003, if a school district is denied a bilingual exception and/or an ESL waiver for more than three consecutive years.

(j) Sanctions. Based on the results of a special accreditation investigation, the commissioner may take appropriate action under TEC, §39A.002.

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

Filed with the Office of the Secretary of State on January 21, 2025.

TRD-202500163

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Effective date: February 10, 2025

Proposal publication date: October 11, 2024

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



## CHAPTER 97. PLANNING AND ACCOUNTABILITY

### SUBCHAPTER AA. ACCOUNTABILITY AND PERFORMANCE MONITORING

#### 19 TAC §97.1003

The Texas Education Agency (TEA) adopts an amendment to §97.1003, concerning local accountability systems. The amendment is adopted with changes to the proposed text as published in the October 18, 2024 issue of the *Texas Register* (49 TexReg 8455) and will be republished. The adopted amendment modifies the timeline for submission of a local accountability plan to TEA.

REASONED JUSTIFICATION: Section 97.1003 defines the requirements school districts and open-enrollment charter schools must meet if they choose to create a local accountability plan to assign an overall performance rating for a campus.



The amendment to §97.1003(f)(3) specifies that a local accountability plan, including its components, domains, and overall scaled scores and ratings, must be submitted to TEA on a timeline determined by the commissioner of education. This amended subsection removes the first week of July as the deadline. This change allows TEA to publish timelines that best fit the needs of districts and charter schools.

Based on public comment, §97.1003(f)(3) has been amended at adoption to state that the timeline will be published on the TEA website.

**SUMMARY OF COMMENTS AND AGENCY RESPONSES:** The public comment period on the proposal began October 18, 2024, and ended November 18, 2024. Following is a summary of public comments received and agency responses.

**Comment:** Red Oak Independent School District noted that the proposed language was vague and allowed for possible timelines that are not manageable. The commenter further suggested amending the rule to provide a broader window for timelines.

**Response:** The agency disagrees. The current rule has an incorrect date for the plan submission. The plan portion must be submitted months prior to the data submission, and timelines are subject to change as the program progresses. However, the rule language at adoption states the timeline will be posted on the agency website.

**Comment:** An individual commented that the timeline requiring school districts to submit a local accountability plan by the first week in July provides parents with a reliable date by which they can request a local accountability plan from a district. The commenter expressed concern that if the timeline is set by the commissioner, community members may not know when an accountability plan is to be submitted and made available. The commenter suggested that the commissioner be required to report the timeline so parents have confidence that the district is following the state's reporting requirements.

**Response:** The agency disagrees with continuing to specify the timeline in the rule because allowing the commissioner to set the timeline will allow more flexibility for school districts and charter schools. However, the agency agrees that the timeline should be made available and has changed the rule at adoption to state that the timeline will be posted on the TEA website.

**STATUTORY AUTHORITY.** The amendment is adopted under Texas Education Code, §39.0544, which requires the commissioner to adopt rules regarding the local assignment of campus performance ratings by school districts and open-enrollment charter schools.

**CROSS REFERENCE TO STATUTE.** The amendment implements Texas Education Code, §39.0544.

*§97.1003. Local Accountability System.*

(a) The local accountability system standards established by the commissioner of education under Texas Education Code (TEC), §39.0544, shall be used by school districts to develop a plan to locally evaluate the performance of their campuses. For the purpose of this section, the term school district includes open-enrollment charter schools.

(b) A local accountability plan created by a school district must include domain performance ratings assigned by the commissioner under TEC, §39.054, and performance ratings based on locally developed domains or sets of accountability measures.

(1) A locally developed domain or set of accountability measures is referred to as a plan component. Plan components must describe each item and the reason for its inclusion in the plan. A school district must assign each component to one of the following five domains: academics, culture and climate, extra- and co-curricular, future-ready learning, and locally determined. The weight of all plan components must equal 100%.

(2) Each campus with an approved school district plan is eligible to receive local accountability rating. A campus with an overall state accountability rating of C or higher based on ratings derived from student performance at the campus is eligible to combine an overall local accountability rating with the overall state accountability rating to determine the combined rating.

(3) For the purposes of assigning state accountability ratings, a campus that does not serve any grade level for which a State of Texas Assessments of Academic Readiness (STAAR®) examination is administered is paired with a campus in its school district that serves grade levels for which STAAR® examinations are administered. A campus not rated under the state accountability system is not eligible to combine state and local ratings. Local accountability data for a campus without state ratings may be displayed on Texas Education Agency (TEA), school district, and campus websites but will not be combined with state accountability data. The state accountability manual adopted under §97.1001 of this title (relating to Accountability Rating System) provides information about campus ratings and eligibility for applicable years.

(4) A school district must create its local accountability plan based on school type. The four school types are elementary school, middle school, high school, and Kindergarten-Grade 12. The plan must include all campuses within a school type. The school district may also request to identify an additional school group within a school type for which to customize its local accountability plan. Otherwise, all campuses within a school type must be evaluated on a common set of components determined by the school district. A school district may also request to identify a campus rated under alternative education accountability provisions as a unique school type.

(c) A school district may assign weights to each plan component described in subsection (b)(1) of this section, as determined by the district, provided that the plan components must in the aggregate account for no more than 50% of the combined overall performance rating. A local accountability plan may include no fewer than two and no more than ten components weighted between 5% and 60%.

(d) Each plan component must contain levels of performance that allow for differentiation, with assigned standards for achieving the differentiated levels that are aligned to a letter grade of A, B, C, D, or F.

(1) In order to provide for the assignment of a letter grade of A, B, C, D, or F, a school district must use data collected by the district to calculate the current baseline average. The baseline data calculated by the school district is used to set standards for each level by setting the average at a C, or mid-level, with the higher A and B grades designating levels considered to be exceptional and good, respectively, and the lower D and F grades designating levels considered to need improvement and be unacceptable, respectively.

(2) A school district may choose to include a single component with a weight not exceeding 10% with the levels of differentiation based on the face value of the average performance level rather than the average performance level, or baseline, being set at the C or mid-level value.

(3) In the case of components where current baseline levels are not used to set the campus rating scale to a C or mid-level value, TEA may require the school district to re-evaluate the inclusion of the component on an annual basis.

(e) Each plan component measure must meet standards for reliability and validity.

(1) In terms of specific measures, tests, or ratings, a measure is considered reliable if it delivers consistent results across administrations.

(2) In terms of specific measures, tests, or ratings, a measure is considered valid if the resulting outcome represents what the test is designed to measure.

(3) Reliability and validity are closely related, and both must be evident for a measure, test, or rating to be included as component outcomes in a local accountability system plan.

(f) Calculations for each plan component and overall performance ratings must be capable of being audited by a third party.

(1) A school district must use a one-to-one correspondence when converting campus grades based on plan component measures to a standard scale of 30-100 where A=90-100, B=80-89, C=70-79, D=60-69, and F=30-59.

(2) Categorical data, or data not on a continuous scale, must be converted to the standard scale of A=90-100, B=80-89, C=70-79, D=60-69, and F=30-59 by assigning the maximum value for each scaled score interval with the corresponding category used in the campus rating scale.

(3) A school district is required to submit a local accountability plan that includes components, domains, and overall scaled scores and ratings to TEA on a timeline determined by the commissioner. The timeline will be published on the TEA website.

(4) All scaled scores and letter grades submitted by a school district are subject to audit. Any data discrepancies or any indication that data have been compromised may result in verification and audit of school district and campus data used to assign local accountability ratings. The audit process may include requests for data used for campus-level calculation of component and domain scaled scores.

(5) On an annual basis, TEA will randomly select school districts for local accountability audits, and, for each such audit, TEA will randomly select components for review. Selected school districts must submit the requested data for review within the timeframe specified. A school district must maintain documentation of its local accountability plan, along with all associated data used to assign campus ratings, for two years after the end of the plan implementation period.

(6) Responsibility for the accuracy and quality of data used to determine local accountability ratings rests with each school district. Superintendent certification of data accuracy during the ratings submission process shall include an assurance that calculations have been verified to ensure that all data were included as appropriate for all components.

(7) An appeal of a local accountability rating may be submitted by the superintendent or chief operating officer once ratings are released. The local accountability appeals timeline follows the appeal deadline dates and processes as described in the state accountability manual adopted under §97.1001 of this title for the applicable year.

(g) A school district must produce a campus score card and make available on the district website an explanation of the methodology used to assign local accountability performance ratings. The cam-

pus score card shall include, at a minimum, the scaled score and rating for each component and domain along with the overall rating. A link to the local accountability ratings posted by the school district must be provided to TEA and may be included on the agency-developed school report card.

(h) Ratings may be revised as a result of investigative activities by the commissioner as authorized under TEC, §39.057(d) and (e).

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

Filed with the Office of the Secretary of State on January 21, 2025.

TRD-202500156

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Effective date: February 10, 2025

Proposal publication date: October 18, 2024

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



## TITLE 25. HEALTH SERVICES

### PART 1. DEPARTMENT OF STATE HEALTH SERVICES

#### CHAPTER 1. MISCELLANEOUS PROVISIONS

##### SUBCHAPTER L. MEDICAL ADVISORY BOARD

###### 25 TAC §1.151, §1.152

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC), on behalf of the Department of State Health Services (DSHS), adopts the repeal of §1.151, concerning Definitions, and §1.152, concerning Operation of the Medical Advisory Board (MAB); and new §1.151, concerning Definitions, and §1.152, concerning Operation of the Medical Advisory Board (MAB).

The repeal of and new §1.151 and §1.152 are adopted without changes to the proposed text as published in the November 1, 2024, issue of the *Texas Register* (49 TexReg 8672). These rules will not be republished.

###### BACKGROUND AND JUSTIFICATION

The adoption updates the definitions, content, and processes of the Medical Advisory Board (MAB) and clarifies compensation for MAB members. The repeal of and new §1.151 and §1.152 comply with changes to Texas Health and Safety Code §§12.091 - 12.098, Texas Transportation Code §521.294, and 37 Texas Administrative Code §15.58; and reflect updates to MAB membership, operations, requirements, medical packet contents, and confidentiality provisions.

###### COMMENTS

The 31-day comment period ended December 2, 2024. During this period, DSHS did not receive any comments regarding the proposed rules.

###### STATUTORY AUTHORITY

The repeals are adopted under Texas Health and Safety Code Chapter 12, Subchapter H, which authorize the Executive Commissioner of Health and Human Services to adopt rules for the Medical Advisory Board; and Texas Government Code §531.0055 and Texas Health and Safety Code §1001.075, which authorize the Executive Commissioner of Health and Human Services to adopt rules necessary for the operation and provision of health and human services by DSHS and for the administration of Texas Health and Safety Code Chapter 1001.

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

Filed with the Office of the Secretary of State on January 21, 2025.

TRD-202500164  
Cynthia Hernandez  
General Counsel  
Department of State Health Services  
Effective date: February 10, 2025  
Proposal publication date: November 1, 2024  
For further information, please call: (512) 834-6787



## 25 TAC §1.151, §1.152

### STATUTORY AUTHORITY

The new rules are adopted under Texas Health and Safety Code Chapter 12, Subchapter H, which authorize the Executive Commissioner of Health and Human Services to adopt rules for the Medical Advisory Board; and Texas Government Code §531.0055 and Texas Health and Safety Code §1001.075, which authorize the Executive Commissioner of Health and Human Services to adopt rules necessary for the operation and provision of health and human services by DSHS and for the administration of Texas Health and Safety Code Chapter 1001.

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

Filed with the Office of the Secretary of State on January 21, 2025.

TRD-202500165  
Cynthia Hernandez  
General Counsel  
Department of State Health Services  
Effective date: February 10, 2025  
Proposal publication date: November 1, 2024  
For further information, please call: (512) 834-6787



## CHAPTER 37. MATERNAL AND INFANT HEALTH SERVICES

### SUBCHAPTER R. ADVISORY COMMITTEES

#### 25 TAC §37.401

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC), on behalf of the Department

of State Health Services (DSHS), adopts an amendment to §37.401, concerning Maternal Mortality and Morbidity Review Committee. The amendment to §37.401 is adopted without changes to the proposed text as published in the October 25, 2024, issue of the *Texas Register* (49 TexReg 8524), and therefore will not be republished.

### BACKGROUND AND JUSTIFICATION

The amendment is necessary to comply with Texas Health and Safety Code, Chapter 34, amended by House Bill (H.B.) 852, 88th Legislature, Regular session, 2023, which added six new Maternal Mortality and Morbidity Review Committee (MMMRC) members and amended the current community advocate MMMRC member position. New positions include physicians specializing in emergency care, cardiology, anesthesiology, oncology, and a representative of a managed care organization. Additionally, the former community advocate position was changed to two community members with experience in a relevant health care field involving the analysis of health care data. One of the community members must represent an urban area of this state, and another must represent a rural area.

H.B. 852 also staggered membership terms, making one-third of the terms expire on every odd-numbered year.

Furthermore, the amendment requires changing the title of §37.401 from Maternal Mortality and Morbidity Task Force to Maternal Mortality and Morbidity Review Committee.

### COMMENTS

The 31-day comment period ended November 25, 2024. During this period, DSHS did not receive any comments regarding the proposed rule.

### STATUTORY AUTHORITY

The amendment is adopted under Texas Government Code §531.0055 and Texas Health and Safety Code §1001.075, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of health and human services by DSHS and for the administration of Texas Health and Safety Code Chapter 1001. The adoption is also required to comply with Texas Health and Safety Code Chapter 34.

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

Filed with the Office of the Secretary of State on January 21, 2025.

TRD-202500160  
Cynthia Hernandez  
General Counsel  
Department of State Health Services  
Effective date: February 10, 2025  
Proposal publication date: October 25, 2024  
For further information, please call: (512) 776-7373



## CHAPTER 157. EMERGENCY MEDICAL CARE

### SUBCHAPTER B. EMERGENCY MEDICAL SERVICES PROVIDER LICENSES

## 25 TAC §157.11

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC), on behalf of the Department of State Health Services (DSHS), adopts an amendment to §157.11, concerning Requirements for an Emergency Medical Services (EMS) Provider License.

The amendment to §157.11 is adopted without changes to the proposed text as published in the October 25, 2024, issue of the *Texas Register* (49 TexReg 8528), and therefore will not be republished.

### BACKGROUND AND JUSTIFICATION

The amendment is necessary to comply with Senate Bill (S.B.) 2133, 88th Legislature, Regular Session, 2023, that amended Texas Health and Safety Code (HSC) §773.050 by adding subsection (j). The new subsection requires emergency medical services (EMS) providers to have a plan for transporting dialysis patients directly to and from an outpatient end stage renal disease facility during a declared disaster if the patient's normal and alternative modes of transportation cannot be used. Texas HSC §773.050(j) permits the EMS provider's plan to prioritize transporting a patient suffering from an acute emergency condition over transporting a dialysis patient. The amendment to 25 TAC §157.11 aligns with the changes in Texas HSC §773.050.

Additionally, House Bill 4611, 88th Legislature, Regular Session, 2023, made certain non-substantive revisions to Subtitle I, Title 4, Texas Government Code, which governs HHSC, Medicaid, and other social services as part of the legislature's ongoing statutory revision program. The amendment is necessary to update a citation in the rule to Texas Government Code that becomes effective on April 1, 2025.

### COMMENTS

The 31-day comment period ended November 25, 2024.

During this period, DSHS did not receive any comments regarding the proposed rule.

### STATUTORY AUTHORITY

The amendment is adopted under Texas Government Code §531.0055 and Texas Health and Safety Code §1001.075, which provide that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by DSHS, and for the administration of Texas Health and Safety Code Chapter 773 and 1001.

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

Filed with the Office of the Secretary of State on January 21, 2025.

TRD-202500161

Cynthia Hernandez

General Counsel

Department of State Health Services

Effective date: February 10, 2025

Proposal publication date: October 25, 2024

For further information, please call: (512) 834-6737



## TITLE 26. HEALTH AND HUMAN SERVICES

## PART 1. HEALTH AND HUMAN SERVICES COMMISSION

### CHAPTER 350. EARLY CHILDHOOD INTERVENTION SERVICES

The Texas Health and Human Services Commission (HHSC) adopts amendments to the Texas Administrative Code (TAC), Title 26, Chapter 350, Subchapter A, concerning General Rules, §§350.103 and §350.107; Subchapter B, concerning Procedural Safeguards and Due Process Procedures, §§350.209 and §350.225; Subchapter C, concerning Staff Qualifications, §§350.303, 350.309, 350.312, 350.313, and 350.315; Subchapter D, concerning Case Management for Infants and Toddlers with Developmental Disabilities, §§350.403, 350.404, 350.405, 350.406, 350.407, 350.411, and 350.415; Subchapter E, concerning Specialized Rehabilitative Services, §§350.501 and §350.507; Subchapter F, concerning Public Outreach, §§350.605, 350.607, 350.609, 350.611, 350.613, 350.615, and 350.617; Subchapter G, concerning Referral, Pre-Enrollment, and Developmental Screening, §§350.704, 350.706, 350.707, 350.708, and 350.709; Subchapter H, concerning Eligibility, Evaluation, and Assessment, §§350.805, 350.807, 350.809, 350.811, 350.813, 350.815, 350.817, 350.821, 350.823, 350.825, 350.829, 350.833, 350.835, and 350.837; Subchapter J, concerning Individualized Family Service Plan, §§350.1003, 350.1004, 350.1007, 350.1009, 350.1015, 350.1017, and 350.1019; Subchapter K, concerning Service Delivery, §§350.1104, 350.1108, and 350.1111; Subchapter L, concerning Transition, §§350.1203, 350.1207, 350.1209, 350.1211, 350.1213, 350.1215, 350.1217, 350.1219, and 350.1221; Subchapter M, concerning Child and Family Outcomes, §350.1307 and §350.1309; and Subchapter N, concerning Family Cost Share System, §§350.1405, 350.1411, 350.1413, 350.1431, and 350.1433.

HHSC also adopts the repeal of 26 TAC Subchapter A, concerning General Rules, §350.101; Subchapter B, concerning Procedural Safeguards and Due Process Procedures, §350.201; Subchapter C, concerning Staff Qualifications, §350.301; Subchapter F, concerning Public Outreach, §350.601; Subchapter G, concerning Referral, Pre-Enrollment, and Developmental Screening, §350.701; Subchapter H, concerning Eligibility, Evaluation, and Assessment, §350.801; Subchapter J, concerning Individualized Family Service Plan, §350.1001, Subchapter K, concerning Service Delivery, §350.1101; Subchapter L, concerning Transition, §350.1201, Subchapter M, concerning Child and Family Outcomes, §350.1301; and Subchapter N, concerning Family Cost Share System, §350.1401.

The amendments to Subchapter A, concerning General Rules, §350.103; Subchapter H, concerning Eligibility, Evaluation, and Assessment, §§350.813, §350.815 and §350.833; Subchapter J, concerning Individualized Family Service Plan, §350.1009; and Subchapter N, concerning Family Cost Share, §350.1413, are adopted with changes to the proposed text as published in the September 13, 2024, issue of the *Texas Register* (49 TexReg 7237). These rules will be republished.

The amendments to Subchapter A, concerning General Rules, §350.107; Subchapter B, concerning Procedural Safeguards and Due Process Procedures, §§350.209 and §350.225; Subchapter C, concerning Staff Qualifications, §§350.303, 350.309, 350.312, 350.313, and 350.315; Subchapter D, concerning Case Management for Infants and Toddlers with Developmental

Disabilities, §§350.403, 350.404, 350.405, 350.406, 350.407, 350.411, §350.415; Subchapter E, concerning Specialized Rehabilitative Services, §350.501, and 350.507; Subchapter F, concerning Public Outreach, §§350.605, 350.607, 350.609, 350.611, 350.613, 350.615, and 350.617; Subchapter G, concerning Referral, Pre-Enrollment, and Developmental Screening, §§350.704, 350.706, 350.707, 350.708, and 350.709; Subchapter H, concerning Eligibility, Evaluation, and Assessment, §§350.805, 350.807, 350.809, 350.811, 350.817, 350.821, 350.823, 350.825, 350.829, 350.835, and 350.837; Subchapter J, concerning Individualized Family Service Plan, §§350.1003, 350.1004, 350.1007, 350.1015, 350.1017, and 350.1019; Subchapter K, concerning Service Delivery, §§350.1104, 350.1108, and 350.1111; Subchapter L, concerning Transition, §§350.1203, 350.1207, 350.1209, 350.1211, 350.1213, 350.1215, 350.1217, 350.1219, and 350.1221; Subchapter M, concerning Child and Family Outcomes, §350.1307 and §350.1309; and Subchapter N, concerning Family Cost Share System, §§350.1405, 350.1411, 350.1431, and 350.1433; and the repeal of 26 TAC Subchapter A, concerning General Rules, §350.101; Subchapter B, concerning Procedural Safeguards and Due Process Procedures; §350.201; Subchapter C, concerning Staff Qualifications; §350.301; Subchapter F, concerning Public Outreach, §350.601; Subchapter G, concerning Referral, Pre-Enrollment, and Developmental Screening, §350.701; Subchapter H, concerning Eligibility, Evaluation, and Assessment, §350.801; Subchapter J, concerning Individualized Family Service Plan; §350.1001, Subchapter K, concerning Service Delivery, §350.1101; Subchapter L, concerning Transition, §350.1201, Subchapter M, concerning Child and Family Outcomes, §350.1301; and Subchapter N, concerning Family Cost Share System, §350.1401 are adopted without changes to the proposed text as published in the September 13, 2024, issue of the *Texas Register* (49 TexReg 7237). These rules will not be republished.

#### BACKGROUND AND JUSTIFICATION

The adoption amends rules as they relate to Early Childhood Intervention (ECI) to align policy with legislation, increase administrative efficiencies, and improve processes for ECI subrecipients. The amendments also include non-substantive changes to improve readability, consistency, and understanding, and to align language with HHSC rulemaking standards.

As required by Texas Government Code Section 2001.039, ECI completed a four-year rule review to determine whether the rule was necessary or if the purpose of creating the rule no longer applied. All repealed rules are the result of the four-year review. The amendment to §350.107 aligns ECI policy with legislation enacted by House Bill 44, 88th Texas Legislature, Regular Session, 2023.

In July 2024, the Texas Education Agency (TEA) amended rules in 19 TAC §89.1040 related to eligibility for children who are deaf, hard of hearing, or have a visual impairment. Because HHSC ECI had already opened rules in 26 TAC Chapter 350, before the TEA rules were enacted, these amendments were not reflected in the proposal rule packet. Due to references in ECI rule to the TEA eligibility requirements, it is necessary to make these amendments now to remove language from the ECI rules that contradicts the amended TEA rules. To align ECI and TEA eligibility requirements, necessary amendments have been made to §350.813 and §350.815 that were not directly in response to formal public comments. The necessary amendments were made

through ongoing collaboration with ECI subrecipients, stakeholders, and representatives of TEA.

Remaining amendments are to address input from ECI subrecipients, stakeholders, and HHSC ECI staff to improve clarity, reduce barriers, and make necessary corrections. The amended and repealed rules address several areas including minimum staff qualifications, programmatic requirements, and additional needs identified through ongoing collaboration with ECI subrecipients and stakeholders.

There is no fiscal impact to state government from implementation of the proposed rules. All changes are to provide clarity and align rules with contract and federal requirements, or to allow administrative efficiencies for ECI subrecipients.

#### COMMENTS

The 31-day comment period ended October 14, 2024.

During this period, HHSC received comments regarding the proposed rules from 10 commenters comprising of two individuals and eight organizations. The organizations are: TexProtects, the Immunization Partnership, the Texas Public Health Coalition, Texas Parent to Parent, the Texas Medical Association, the Department of State Health Services (DSHS) Newborn Screening Unit, Paso Del Norte ECI, and Region 19 Education Service Center ECI. A summary of comments relating to the rules and HHSC's responses follow.

**Comment:** One commenter requested that proposed rules be amended to include "telemedicine" in addition to telehealth. The commenter asks that telemedicine be defined and used throughout chapter 350, with specific references in §§350.103, 350.403, 350.405, and 350.1104.

**Response:** HHSC disagrees and declines to revise the rule in response to this comment. "Telemedicine" refers specifically to remote physician services, which are not provided by ECI professionals.

**Comment:** One commenter requested amendments to the definition of "days" in §350.103 to remove a reference to "school days."

**Response:** HHSC agrees and revises the rule as suggested.

**Comment:** One commenter requested amendments to the definition of "interdisciplinary team" in §350.103 to further define the Local Education Agency (LEA) representatives that may be on an interdisciplinary team.

**Response:** HHSC agrees and revises the rule as suggested.

**Comment:** One commenter requested the definition of licensed practitioner of the healing arts (LPHA) be amended to remove "licensed audiologist" from the list of professionals who can serve as an LPHA to reduce confusion for audiologists employed by the LEA.

**Response:** HHSC disagrees and declines to revise the rule in response to this comment. While licensed audiologists who work for the LEA are unable to fill the role of LPHAs on ECI interdisciplinary teams, licensed audiologists who are not employed by the LEA can serve as an LPHA.

**Comment:** Four commenters stated the opinion that the proposed amendments to §350.107(c) go beyond the scope of the intent of House Bill 44, 88th Texas Legislature, Regular Session, 2023, which specifically applies to Medicaid and CHIP providers who provide services to Medicaid and Children's Health Insur-

ance Program (CHIP) enrolled families. Commenters stated that proposed amendments should not apply to families with private insurance or other third-party payments that are not Medicaid or CHIP.

Response: HHSC disagrees and declines to revise the rule in response to this comment. As required by the Code of Federal Regulations, Title 34, Subtitle B, Chapter III, Part 303, §303.212(a), which requires applications to participate in IDEA Part C must include steps the State is taking to ensure equitable access to, and equitable participation in, the part C statewide system, HHSC ECI cannot implement policies that apply to only certain children based on their insurance type or status.

Comment: Four commenters requested that HHSC reinstate the requirement for ECI subrecipients to inform families of the importance of immunizations in §350.103(c). These comments request that ECI subrecipients continue to help families obtain immunizations if necessary.

Response: HHSC disagrees and declines to revise the rule in response to this comment. There is nothing in ECI rule that prevents ECI subrecipients from informing families about the importance of immunizations or assisting them in accessing vaccinations.

Comment: Three commenters requested HHSC revise §350.107(a)(2)(C) to reinstate immunization requirements as specified by the Department of State Health Services (DSHS).

Response: HHSC disagrees and declines to revise the rule in response to this comment. House Bill 44, 88th Texas Legislature, Regular Session, 2023, stipulates that Medicaid and CHIP providers may not deny services based on immunization status. ECI providers must be able to bill Medicaid and CHIP for their services.

Comment: Three commenters raised concerns about subrecipient policies allowing families to request an exemption for immunizations orally in §350.107(d) and requests the requirement to accept oral requests apply only to Medicaid or CHIP enrolled families. One of these commenters requests HHSC ECI require a documented request and a standardized form to request exemptions, and a robust policy for reviewing and documenting requests.

Response: HHSC disagrees and declines to revise the rule in response to these comments. ECI subrecipients will be responsible for implementing policies and procedures related to requests for exemptions. As required by the Code of Federal Regulations, Title 34, Subtitle B, Chapter III, Part 303, §303.212(a), HHSC cannot implement policies that apply to only certain children based on their insurance type or status.

Comment: One commenter requested a permissive rule to allow ECI subrecipients to post a notice in their offices stating compliance with state law created by House Bill 44, 88th Texas Legislature, Regular Session, 2023. This commenter also requested strengthening the complaint process to provide protections for ECI subrecipients.

Response: HHSC disagrees and declines to revise the rule in response to this comment. There are no rules preventing ECI subrecipients from posting a notice in their main offices. Most ECI services are provided in home or community settings, and clients and their families rarely go to ECI offices. Additionally, 34 Code of Federal Regulations (CFR) §§ 303.432-434 and 26 TAC §350.215 establish requirements for all Part C complaint procedures.

Comment: One commenter requested HHSC clarify and define "timely manner" in §350.704(a)(3), related to contacting families after receiving a referral.

Response: HHSC disagrees and declines to revise the rule in response to this comment. To ensure flexibility, ECI subrecipients define "timely manner" for their agency, within parameters set by HHSC ECI.

Comment: One commenter requested that HHSC add language in §350.813 that would allow subrecipients to engage parents of children with suspected hearing loss and the LEA to ensure the child is seen by a licensed audiologist and receives a formal diagnosis. The comment further recommends including language that alerts the Child Find system to connect the child with an audiologist if they have not had a hearing test by three months of age.

Response: HHSC disagrees and declines to revise the rule in response to this comment. Section 350.813 already requires ECI subrecipients to identify children who need additional hearing assessments and work with parents to get an audiological test for those children.

Comment: One commenter requested clarification for the intent of proposed amendments to §350.813(a).

Response: HHSC amended §350.813(a) to clarify the requirement for ECI subrecipients to ensure children who do not meet eligibility criteria through a medical diagnosis, visual impairment, or developmental delay, but are suspected to be deaf or hard of hearing, receive the necessary evaluations and assessments before they are determined to be ineligible.

Commenter: One commenter requested HHSC revise §350.813(a) to remove "or confirmed to be deaf or hard of hearing" for requirements to refer children with suspected or confirmed hearing loss.

Response: HHSC agrees and revises the rule as suggested.

Comment: One commenter requested revisions to §350.813(a) to remove the reference to "examinations."

Response: HHSC agrees and revises the rule as suggested.

Comment: One commenter requested revisions to §350.813(a) to define the appropriate LEA staff who participate in the interdisciplinary team that determines eligibility.

Response: HHSC disagrees and did not revise the rule in response to this comment. HHSC revises §350.813(a) to remove the reference to the appropriate LEA staff to align with 19 TAC §89.1040. Because the LEA is no longer involved in eligibility determination for ECI services, the reference has been removed.

Comment: Two commenters requested amendments to proposed §350.813(b) and (c) to provide clarification regarding the evaluation results subrecipients must review during eligibility determination to determine a need for further hearing tests.

Response: HHSC agrees and revises the rule to clarify and define evaluation results.

Comment: Two commenters expressed concern that proposed §350.813(b) and (c) allow ECI subrecipients to use screening tools outside of audiological exams for eligibility determination for children who are deaf or hard of hearing.

Response: HHSC agrees proposed amendments to §350.813(b) and (c) create confusion about the intent of these subsections and would like to provide clarification. Subsections

(b) and (c) refer to determining the need for further hearing assessment during evaluations of all children, not just those referred due to concerns about hearing. The purpose of this rule is to ensure children who meet eligibility criteria of qualifying diagnosis, determination of developmental delay, or visual impairment, whose evaluations show a need for further hearing assessment, are referred to an audiologist. HHSC has amended §350.813(b) and (c) to clarify this intent.

Comment: Two commenters requested amendments to the requirement for subrecipients to refer a child to an audiologist if a need for further hearing testing is identified, and the child has not had a hearing test within the last six months. The commenter requested the six-month timeframe be reduced to three months.

Response: HHSC disagrees and declines to make the requested change. Section 350.813(d) relates to additional testing after a child has already passed one hearing test. Reducing the time frame would create undue burden on ECI subrecipients and enrolled families.

Comment: One commenter requested an amendment to proposed §350.813(d) to change hearing "assessment" to "evaluation" for consistency.

Response: HHSC agrees with a portion of this comment and has made amendments throughout §350.813 in response to the request. Rather than using the term "evaluation," HHSC has amended the language to indicate hearing "test" to clarify the difference between hearing tests and evaluations. For ECI, tests conducted by a doctor are referred to as "hearing tests," whereas evaluations performed by teachers of the deaf and hard of hearing are referred to as "evaluations."

Comment: One commenter requested the removal of §350.813(e)(1)(A) and (B), because these exams are no longer required per 19 TAC §89.1040.

Response: HHSC agrees and amends the rule as suggested.

Comment: One commenter requested revisions to §350.813(e) to change the requirement from "participate in eligibility determination" to "establish eligibility" for children who have been identified as being deaf or hard of hearing.

Response: HHSC disagrees and declines to amend the rule as requested. The LEA is not involved in establishing eligibility for ECI services. However, amendments have been made to this subsection. HHSC is amending proposed §350.813(e) to align ECI rules with recent amendments to TEA eligibility requirements in 19 TAC §89.1040, which is referenced in ECI eligibility requirements in 26 TAC §350.809(2). Proposed amendments to 26 TAC §350.813 were posted for public comment before amendments to 19 TAC §89.1040 were adopted, and therefore the rules were not aligned. The amendment to 26 TAC §350.813(e) brings this subsection into alignment with current 19 TAC §89.1040.

Comment: One commenter requests a revision to §350.813(e)(2) to require a copy of the audiological evaluation report with the referral to the LEA.

Response: HHSC agrees with a portion of this comment and revises the rule to require a copy of a hearing test with the referral to the LEA if the subrecipient receives hearing test results. Results of a hearing test are not required for the referral of children who are eligible for ECI services with documentation indicating the child has a medical condition that has a high probability of resulting in a developmental delay and sensory impairment.

Comment: One commenter requested a revision to a citation to the United States Code (USC) in §350.813 and §350.815, which currently cite 20 USC §1232g(b).

Response: HHSC agrees and revises the rule as suggested.

Comment: One commenter requested the title of §350.815 be changed to "Visual Impairment."

Response: HHSC agrees and revises the rule as suggested.

Comment: One commenter requested revised language to proposed new §350.815(a) to define the LEA staff referenced.

Response: HHSC disagrees and did not revise the rule in response to this comment. HHSC revises §350.815(a) to remove the reference to the appropriate LEA staff to align with 19 TAC §89.1040. Because the LEA is no longer involved in eligibility determination for ECI services, this reference has been removed.

Comment: Two commenters requested amendments to proposed §350.815(b) and (c) to provide clarification regarding the evaluation results subrecipients must review during eligibility determination to determine a need for further vision tests.

Response: HHSC agrees and revises the rule to clarify and define evaluation results.

Comment: Two commenters expressed concern that §350.815(b) and (c) allow ECI subrecipients to use screening tools outside of vision tests for eligibility determination for children who are visually impaired.

Response: HHSC agrees proposed amendments to §350.815(b) and (c) create confusion about the intent of these subsections and would like to provide clarification. Subsections (b) and (c) refer to determining the need for further vision assessment during all evaluations, not specifically for children who are referred due to vision concerns. The purpose of this rule is to ensure children who meet eligibility criteria of qualifying diagnosis, developmental delay, or being deaf or hard of hearing, and whose evaluations show a need for further vision assessment, are referred for vision testing. HHSC has amended §350.815(b) and (c) to clarify this intent.

Comment: One commenter requested an amendment to §350.815 to adjust the requirement for subrecipients to refer a child to an ophthalmologist or optometrist if a need for further vision testing is identified, and the child has not had a vision test within the last nine months. The commenter requested the nine-month timeframe be shortened to three months.

Response: HHSC disagrees and declines to make the requested change. Section 350.815(d) relates to additional testing after a child has already passed one vision test. Reducing the time frame would create undue burden on ECI subrecipients and enrolled families. To align §350.815 with §350.813, HHSC has made an amendment to reduce the nine-month timeframe to six months.

Comment: One commenter requested amendments to §350.815 to change terminology related to vision "assessment" to vision "evaluation" to enhance consistency.

Response: HHSC agrees with a portion of this comment and has made amendments throughout §350.815 in response to the request. Rather than using the term "evaluation," HHSC has amended the language to indicate vision "test" to clarify the difference between vision tests and evaluations. Tests conducted by a doctor are referred to as "vision tests," whereas evaluations

performed by teachers of students with visual impairments are referred to as "evaluations."

Comment: Two commenters request a revision to §350.815 to require a copy of the vision test with the referral to the LEA.

Response: HHSC agrees with a portion of this comment and revises the rule to require a copy of a vision test with the referral to the LEA if the subrecipient receives vision test results. Results of a vision test are not required for the referral of children who are eligible for ECI services with documentation indicating the child has a medical condition that has a high probability of resulting in a developmental delay and sensory impairment.

Comment: One commenter requested adding a new subsection to §350.815 to implement a requirement for subrecipients to refer any child who wears glasses to the LEA.

Response: HHSC disagrees and declines to revise the rule. If the interdisciplinary team does not determine a need for referring a child to the LEA, requiring a referral for all children with glasses, regardless of the interdisciplinary team's opinion, would create undue burden for ECI subrecipients.

Comment: One commenter requested adding a new subsection to §350.815 to define the LEA professionals participating in part of the eligibility determination, and identifying the evaluations and assessments required under 19 TAC §89.1040.

Response: HHSC disagrees and declines to revise the rule with the requested amendment. Per 19 TAC §89.1040, the LEA is not involved in eligibility determination for ECI services. While the LEA is involved in service planning, ECI should not be involved in determining which evaluations LEA staff use to determine service needs.

Comment: One commenter expressed concerns that proposed amendments to §350.821 and §350.823 were identified as non-substantive by HHSC. The commenter believes these amendments are substantive due to the addition of new §350.821(a) and subsequent amendments to §350.821 and §350.823. The amendments to these rules do not allow ECI subrecipients to use qualitative determination of delay (QDD) during determinations of continuing eligibility. The commenter requests amendments to align with the flexibility to use informed clinical opinion for continuing eligibility determinations, per 34 CFR §303.321(a)(3)(iii).

Response: HHSC declines to revise the proposed rule. HHSC recognizes there is confusion by the addition of new §350.821(1), and the subsequent proposed amendments related to this addition. While the amendments referenced do not change existing practice or procedure, they provide clarification of current practices. The purpose of new §350.821(1) is to clarify existing requirements in current §350.823(b)(2)(A), which states that eligibility must be redetermined through an evaluation using the standardized tool designated by HHSC. While QDD cannot be used for continuing eligibility, ECI evaluators may still use informed clinical opinion in determining eligibility.

Comment: Two commenters requested the addition of the Rapid Interactive Screening Test for Autism in Toddlers (RITA-T) as an allowable autism spectrum disorders screening in §350.833.

Response: HHSC disagrees with adding a new screening tool to this rule but HHSC agrees to amend the proposed rule to remove specific references to the Modified Checklist for Autism in Toddlers Revised in §350.833(d) through (f). This reference has been changed to indicate a requirement to complete an autism screener as designated by HHSC ECI. This will allow HHSC ad-

ministrative efficiencies to allow the use of the RITA-T or other autism screeners after HHSC has the opportunity to review and research them.

Comment: One commenter requested the addition of "language skills" in §350.833(c)(2).

Response: HHSC agrees and revises the rule as suggested.

Comment: One commenter requested a revision to §350.1009(c)(2) to replace "teacher of the visually impaired" to "teacher of students with visual impairments and a certified orientation and mobility specialist" as required members of the initial and annual Individualized Family Service Plan (IFSP) meetings for children who are visually impaired.

Response: HHSC agrees and revises the rule as suggested.

Comment: One commenter requested a revision to §350.1009(d)(1) to clarify the requirement for certified teachers to attend meetings for periodic reviews of IFSPs if discussions or changes may affect or be affected by the child being deaf or hard of hearing or having a visual impairment.

Response: HHSC agrees and revises the rule as suggested.

Comment: One commenter requested the removal of §350.1009(f), which states that a certified teacher is not required to attend an IFSP review when changes do not affect the child's deaf and hard of hearing or vision services.

Response: HHSC disagrees with the removal of this subsection but agrees there is a need for clarification. HHSC revises this rule to provide clarification on when a certified teacher is not required to attend a IFSP review.

Comment: One commenter requested revisions to §350.1009(g) to add a requirement for the IFSP team to immediately route the IFSP to the certified teacher and clarify the requirement for the certified teacher to be present if changes affect or are affected by the child's hearing or vision status.

Response: HHSC agrees that the IFSP should be routed quickly and revises the rule to state the IFSP should be routed within two business days.

Comment: One commenter requested a revision to §350.1009(h) to replace "certified teacher of the visually impaired" with "certified teacher of students with visual impairments."

Response: HHSC agrees and revises the rule as suggested.

Comment: One commenter requested amendments to §350.1205, which is not among the open rules, to add references to specific referral networks.

Response: HHSC declines to make the suggested change at this time. HHSC will address the requested change in a future rule project to ensure HHSC has time to review and research all the recommended additions and that the public has the opportunity to comment on the proposed amendment.

Comment: One commenter requested revisions to §350.1413(a)(15) to replace a reference to a child's individualized education program with a reference to a free appropriate public education.

Response: HHSC agrees and revises the rule as suggested.

HHSC made a formatting edit to correct the numbering of §350.815 by adding a paragraph (2) following paragraph (1)



in new subsection (c). Also, an edit was made to correct the numbering for §350.103(30)(D).

## SUBCHAPTER A. GENERAL RULES

### 26 TAC §350.101

#### STATUTORY AUTHORITY

The repeal is adopted under Texas Government Code Section 531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, as well as Texas Government Code §2001.039, which requires a state agency to review and consider for reoption each of its rules every 4 years, and Texas Government Code §531.02119, which provides that the Executive Commissioner of HHSC shall adopt rules prohibiting discrimination based on immunization status.

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

Filed with the Office of the Secretary of State on January 24, 2025.

TRD-202500224

Karen Ray

Chief Counsel

Health and Human Services Commission

Effective date: February 13, 2025

Proposal publication date: September 13, 2024

For further information, please call: (512) 424-6580



### 26 TAC §350.103, §350.107

#### STATUTORY AUTHORITY

The amendments are adopted under Texas Government Code Section 531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, as well as Texas Government Code §2001.039, which requires a state agency to review and consider for reoption each of its rules every 4 years, and Texas Government Code §531.02119, which provides that the Executive Commissioner of HHSC shall adopt rules prohibiting discrimination based on immunization status.

#### §350.103. Definitions.

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

(1) **Assessment**--As defined in 34 CFR §303.321(a)(2)(ii), the ongoing procedures used by appropriate qualified personnel to assess the child's individual strengths and needs and determine the appropriate services to meet those needs throughout the period of a child's eligibility for ECI services.

(2) **Child**--An infant or toddler under the age of three.

(3) **Child find**--As described in 34 CFR §§303.115, 303.302, and 303.303, activities and strategies designed to locate and identify, as early as possible, infants and toddlers with developmental delay.

(4) **CFR**--Code of Federal Regulations. The codification of the general and permanent rules published in the Federal Register by the departments and agencies of the Federal Government.

(5) **Complaint**--A formal written allegation submitted to HHSC stating that a requirement of IDEA Part C or an applicable federal or state regulation has been violated.

(6) **Comprehensive needs assessment**--The process for identifying a child's unique strengths and needs, and the family's resources, concerns, and priorities in order to develop an IFSP. The comprehensive needs assessment:

(A) is conducted by an interdisciplinary team as defined in paragraph (29) of this section; and

(B) gathers information across developmental domains regarding the child's abilities to participate in the everyday routines and activities of the family.

(7) **Consent**--As defined in 34 CFR §303.7 and meeting all requirements in 34 CFR §303.420.

(8) **Co-visits**--When two or more ECI professionals deliver different services to the child during the same period of time. Co-visits are provided when a child will receive greater benefit from services being provided at the same time, rather than individually.

(9) **Days**--Calendar days.

(10) **Developmental delay**--As defined in Texas Human Resources Code §73.001(3) and determined to be significant in compliance with the criteria and procedures in Subchapter H of this chapter (relating to Eligibility, Evaluation, and Assessment).

(11) **Developmental screenings**--General screenings provided by the ECI program to assess the child's need for further evaluation.

(12) **DFPS**--Department of Family and Protective Services. The state agency that provides family reunification services for families. These services are provided to families and children to protect the children from abuse and neglect and help the family reduce the risk of abuse and neglect.

(13) **ECI**--Early Childhood Intervention.

(14) **ECI professional**--An individual employed by or under the direction of an ECI program who meets the requirements of qualified personnel as defined in 34 CFR §303.13(c) and §303.31, and who is knowledgeable in child development and developmentally appropriate behavior, possesses the requisite education and experience, and demonstrates competence to provide ECI services.

(15) **ECI program**--In addition to the definition of early intervention service program as defined in 34 CFR §303.11, a program operated by a subrecipient of HHSC ECI with the express purpose of implementing a system to provide ECI services to children with developmental delays and their families.

(16) **ECI services**--Individualized IDEA Part C services determined by the IFSP team to be necessary to support the family's ability to enhance their child's development. ECI services are further defined in 34 CFR §303.13 and §303.16 and §350.1105 of this chapter (relating to Capacity to Provide Early Childhood Intervention Services).

(17) **ECSE**--Early Childhood Special Education. The state and federally mandated program for young children with disabilities ages three to five under IDEA Part B, Section 619.

(18) **EIS**--Early intervention specialist. A credentialed professional who meets specific educational requirements established by HHSC ECI in §350.313(a) of this chapter (relating to Early Intervention Specialist) and has specialized knowledge in early childhood

cognitive, physical, communication, social-emotional, and adaptive development.

(19) Evaluation--The procedures used by qualified personnel to determine a child's initial and continuing eligibility for ECI services that comply with the requirements described in 34 CFR §303.21 and §303.321.

(20) Face-to-face--The delivery of ECI services in-person or via telehealth.

(21) FERPA--Family Educational Rights and Privacy Act of 1974, 20 USC §1232g, as amended, and implementing regulations at 34 CFR Part 99. Federal law that outlines privacy protection for parents and children enrolled in the ECI program. FERPA includes rights to confidentiality and restrictions on disclosure of personally identifiable information, and the right to inspect records.

(22) Group services--ECI services provided at the same time to no more than four children and their parent or parents or routine caregivers per ECI professional to meet the developmental needs of the individual infant or toddler.

(23) HHSC--Texas Health and Human Services Commission.

(A) HHSC has the final authority and responsibility for the administration, supervision, and monitoring of programs and activities under this system.

(B) HHSC has the final authority for the obligation and expenditure of funds and compliance with all applicable laws and rules.

(24) HHSC ECI--Texas Health and Human Services Commission Early Childhood Intervention. The entity designated as the lead agency, as defined by 34 CFR §303.22. HHSC ECI is responsible for maintaining and implementing the statewide IDEA Part C system.

(25) IDEA Part C--The Individuals with Disabilities Education Act, Part C, as amended in 2004.

(26) IFSP--Individualized Family Service Plan as defined in 34 CFR §303.20. A written plan of care for providing ECI services and other medical, health, and social services to an eligible child and the child's family when necessary to enhance the child's development. The IFSP is considered complete when the parent has signed the IFSP and received a copy.

(27) IFSP services--The individualized ECI services listed in the IFSP that have been determined by the IFSP team to be necessary to enhance an eligible child's development.

(28) IFSP services pages--The standardized form designated by HHSC ECI that constitutes the required final pages of the IFSP used to record ECI services planned for the child.

(29) IFSP team--An interdisciplinary team that meets the requirements in 34 CFR §303.24(b) and works collaboratively to develop, review, modify, and approve the IFSP. The IFSP team includes, at a minimum, the child's parent and at least two ECI professionals from different disciplines or professions.

(A) At least one of the ECI professionals must be the family's assigned service coordinator.

(B) At least one of the ECI professionals must be an LPHA.

(C) At least one ECI professional must have been involved in conducting the evaluation. This may be the LPHA or another professional.

(D) If the LPHA attending the IFSP meeting did not conduct the evaluation, the subrecipient must ensure that the most recent observations and conclusions of the LPHA who conducted the evaluation were communicated to the LPHA attending the initial IFSP meeting and incorporated into the IFSP.

(E) Other team members may participate by other means acceptable to the team.

(30) Interdisciplinary team--In addition to the definition of multidisciplinary team as defined in 34 CFR §303.24, a team that consists of at least two ECI professionals from different disciplines and the child's parent.

(A) One of the ECI professionals must be an LPHA.

(B) The team may include a teacher for the deaf and hard of hearing, a teacher for students with visual impairments, and a certified orientation and mobility specialist from the child's LEA, as appropriate.

(C) Professionals on the team shall share a common perspective regarding infant and toddler development and developmental delay.

(D) Professionals on the team must work collaboratively to:

(i) conduct the evaluation and assessment;

(ii) develop the IFSP; and

(iii) provide ECI services.

(31) LEA--Local educational agency as defined in 34 CFR §303.23.

(32) LPHA--Licensed practitioner of the healing arts. A licensed physician, registered nurse, licensed physical therapist, licensed occupational therapist, licensed speech language pathologist, licensed professional counselor, licensed clinical social worker, licensed psychologist, licensed dietitian, licensed audiologist, licensed physician assistant, licensed marriage and family therapist, licensed intern in speech language pathology, licensed behavior analyst, or advanced practice registered nurse who is an employee or a subcontractor of an ECI subrecipient. LPHA responsibilities are further described in §350.312 of this chapter (relating to Licensed Practitioner of the Healing Arts).

(33) Medicaid--The medical assistance entitlement program administered by HHSC.

(34) MOU--Memorandum of understanding. A written document evidencing the understanding or agreement of two or more parties regarding the subject matter of the agreement.

(35) Native language--As defined in 34 CFR §303.25.

(A) When used with respect to an individual who is limited English proficient (as that term is defined in IDEA Part B, Section 602(18)), native language means:

(i) the language normally used by that individual, or, in the case of a child, the language normally used by the parents of the child; and

(ii) for evaluations and assessments conducted pursuant to 34 CFR §303.321(a)(5) and (a)(6), the language normally used by the child, if determined developmentally appropriate for the child by qualified personnel conducting the evaluation or assessment.

(B) When used with respect to an individual who is deaf or hard of hearing, blind or visually impaired, or for an individual with

no written language, "native language" means the mode of communication that is normally used by the individual (such as sign language, braille, or oral communication).

(36) Natural environments--As defined in 34 CFR §303.26, settings that are natural or typical for a same-aged infant or toddler without a disability. A natural environment may include the home or community settings, include the daily activities of the child and family or caregiver, and must be consistent with the provisions of 34 CFR §303.126.

(37) Parent--As defined in 20 USC §1401(23) and 34 CFR §303.27.

(38) Personally identifiable information--As defined in 34 CFR §99.3 and 34 CFR §303.29.

(39) Pre-enrollment--All family-related activities from the time the referral is received up until the time the parent signs the initial IFSP.

(40) Primary referral sources--As defined in 34 CFR §303.303(c).

(41) Public agency--HHSC and any other state agency or political subdivision of the state that is responsible for providing ECI services to eligible children under IDEA Part C.

(42) Qualifying medical diagnosis--A diagnosed medical condition that has a high probability of developmental delay as determined by HHSC, as described in §350.811 of this chapter (relating to Qualifying Medical Diagnosis).

(43) Referral date--The date the child's name and sufficient information to contact the family was obtained by the subrecipient.

(44) Routine caregiver--An adult who:

(A) has written authorization from the parent to participate in ECI services with the child, even in the absence of the parent;

(B) participates in the child's daily routines;

(C) knows the child's likes, dislikes, strengths, and needs; and

(D) may be the child's relative, childcare provider, or other person who regularly cares for the child.

(45) SEA--State educational agency as defined by 34 CFR §303.3(b).

(46) Service coordinator--An employee or subcontractor of an ECI subrecipient who:

(A) meets all applicable requirements in Subchapter C of this chapter (relating to Staff Qualifications);

(B) is assigned to be the single contact point for the family;

(C) is responsible for providing case management services as described in §350.405 of this chapter (relating to Case Management Services); and

(D) is from the profession most relevant to the child's or family's needs or is otherwise qualified to carry out all applicable responsibilities.

(47) SRS--Specialized rehabilitative services. Rehabilitative services outlined in §350.501 of this chapter (relating to Specialized Rehabilitative Services) that promote age-appropriate development by correcting deficits and teaching compensatory skills

for deficits that directly result from medical, developmental, or other health-related conditions.

(48) SST--Specialized skills training. As defined by 34 CFR 303.13(b)(14). SST seeks to reduce the child's functional limitations across developmental domains, including strengthening the child's cognitive skills, positive behaviors, and social interactions.

(49) Subrecipient--A local private or public agency with proper legal status and governed by a board of directors or governing authority that accepts funds from HHSC to administer an ECI program.

(50) Surrogate parent--A person assigned to act as a surrogate for the parent in compliance with IDEA Part C and this chapter.

(51) TAC--Texas Administrative Code. A compilation of all state agency rules in Texas.

(52) TCM--Targeted case management. Case management activities that meet criteria in §350.405(c) of this subchapter and are reimbursable by Medicaid when provided to Medicaid-enrolled children who are eligible for ECI.

(53) TEA--Texas Education Agency. The state agency that oversees primary and secondary public education. It is headed by the commissioner of education.

(54) Telehealth services--Health care services, other than telemedicine medical services, delivered by a health professional licensed, certified, or otherwise entitled to practice in Texas and acting within the scope of the health professional's license, certification, or entitlement to a patient who is located at a different physical location than the health professional using synchronous audio-visual telecommunications or information technology.

(55) USC--United States Code. The official codification of the general and permanent federal statutes of the United States.

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

Filed with the Office of the Secretary of State on January 24, 2025.

TRD-202500225

Karen Ray  
Chief Counsel

Health and Human Services Commission

Effective date: February 13, 2025

Proposal publication date: September 13, 2024

For further information, please call: (512) 424-6580



## SUBCHAPTER B. PROCEDURAL SAFEGUARDS AND DUE PROCESS PROCEDURES

### 26 TAC §350.201

#### STATUTORY AUTHORITY

The amendments are adopted under Texas Government Code Section 531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, as well as Texas Government Code §2001.039, which requires a state agency to review and consider for re-adoption each of its rules

every 4 years, and Texas Government Code §531.02119, which provides that the Executive Commissioner of HHSC shall adopt rules prohibiting discrimination based on immunization status.

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

Filed with the Office of the Secretary of State on January 24, 2025.

TRD-202500226  
Karen Ray  
Chief Counsel  
Health and Human Services Commission  
Effective date: February 13, 2025  
Proposal publication date: September 13, 2024  
For further information, please call: (512) 424-6580



**26 TAC §350.209, §350.225**

**STATUTORY AUTHORITY**

The amendments are adopted under Texas Government Code Section 531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, as well as Texas Government Code §2001.039, which requires a state agency to review and consider for readoption each of its rules every 4 years, and Texas Government Code §531.02119, which provides that the Executive Commissioner of HHSC shall adopt rules prohibiting discrimination based on immunization status.

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

Filed with the Office of the Secretary of State on January 24, 2025.

TRD-202500227  
Karen Ray  
Chief Counsel  
Health and Human Services Commission  
Effective date: February 13, 2025  
Proposal publication date: September 13, 2024  
For further information, please call: (512) 424-6580



**SUBCHAPTER C. STAFF QUALIFICATIONS**

**26 TAC §350.301**

**STATUTORY AUTHORITY**

The repeal is adopted under Texas Government Code Section 531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, as well as Texas Government Code §2001.039, which requires a state agency to review and consider for readoption each of its rules every 4 years, and Texas Government Code §531.02119, which provides that the Executive Commissioner of HHSC shall adopt rules prohibiting discrimination based on immunization status.

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

Filed with the Office of the Secretary of State on January 24, 2025.

TRD-202500228  
Karen Ray  
Chief Counsel  
Health and Human Services Commission  
Effective date: February 13, 2025  
Proposal publication date: September 13, 2024  
For further information, please call: (512) 424-6580



**26 TAC §§350.303, 350.309, 350.312, 350.313, 350.315**

**STATUTORY AUTHORITY**

The amendments are adopted under Texas Government Code Section 531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, as well as Texas Government Code §2001.039, which requires a state agency to review and consider for readoption each of its rules every 4 years, and Texas Government Code §531.02119, which provides that the Executive Commissioner of HHSC shall adopt rules prohibiting discrimination based on immunization status.

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

Filed with the Office of the Secretary of State on January 24, 2025.

TRD-202500229  
Karen Ray  
Chief Counsel  
Health and Human Services Commission  
Effective date: February 13, 2025  
Proposal publication date: September 13, 2024  
For further information, please call: (512) 424-6580



**SUBCHAPTER D. CASE MANAGEMENT FOR INFANTS AND TODDLERS WITH DEVELOPMENTAL DISABILITIES**

**26 TAC §§350.403 - 350.407, 350.411, 350.415**

**STATUTORY AUTHORITY**

The amendments are adopted under Texas Government Code Section 531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, as well as Texas Government Code §2001.039, which requires a state agency to review and consider for readoption each of its rules every 4 years, and Texas Government Code §531.02119, which provides that the Executive Commissioner of HHSC shall adopt rules prohibiting discrimination based on immunization status.

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

Filed with the Office of the Secretary of State on January 24, 2025.

TRD-202500230

Karen Ray

Chief Counsel

Health and Human Services Commission

Effective date: February 13, 2025

Proposal publication date: September 13, 2024

For further information, please call: (512) 424-6580



## SUBCHAPTER E. SPECIALIZED REHABILITATIVE SERVICES

### 26 TAC §350.501, §350.507

#### STATUTORY AUTHORITY

The amendments are adopted under Texas Government Code Section 531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, as well as Texas Government Code §2001.039, which requires a state agency to review and consider for re adoption each of its rules every 4 years, and Texas Government Code §531.02119, which provides that the Executive Commissioner of HHSC shall adopt rules prohibiting discrimination based on immunization status.

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

Filed with the Office of the Secretary of State on January 24, 2025.

TRD-202500232

Karen Ray

Chief Counsel

Health and Human Services Commission

Effective date: February 13, 2025

Proposal publication date: September 13, 2024

For further information, please call: (512) 424-6580



## SUBCHAPTER F. PUBLIC OUTREACH

### 26 TAC §350.601

#### STATUTORY AUTHORITY

The repeal is adopted under Texas Government Code Section 531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, as well as Texas Government Code §2001.039, which requires a state agency to review and consider for re adoption each of its rules every 4 years, and Texas Government Code §531.02119, which provides that the Executive Commissioner of HHSC shall adopt rules prohibiting discrimination based on immunization status.

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

Filed with the Office of the Secretary of State on January 24, 2025.

TRD-202500233

Karen Ray

Chief Counsel

Health and Human Services Commission

Effective date: February 13, 2025

Proposal publication date: September 13, 2024

For further information, please call: (512) 424-6580



## 26 TAC §§350.605, 350.607, 350.609, 350.611, 350.613, 350.615, 350.617

#### STATUTORY AUTHORITY

The amendments are adopted under Texas Government Code Section 531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, as well as Texas Government Code §2001.039, which requires a state agency to review and consider for re adoption each of its rules every 4 years, and Texas Government Code §531.02119, which provides that the Executive Commissioner of HHSC shall adopt rules prohibiting discrimination based on immunization status.

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

Filed with the Office of the Secretary of State on January 24, 2025.

TRD-202500234

Karen Ray

Chief Counsel

Health and Human Services Commission

Effective date: February 13, 2025

Proposal publication date: September 13, 2024

For further information, please call: (512) 424-6580



## SUBCHAPTER G. REFERRAL, PRE-ENROLLMENT, AND DEVELOPMENTAL SCREENING

### 26 TAC §350.701

#### STATUTORY AUTHORITY

The repeal is adopted under Texas Government Code Section 531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, as well as Texas Government Code §2001.039, which requires a state agency to review and consider for re adoption each of its rules every 4 years, and Texas Government Code §531.02119, which provides that the Executive Commissioner of HHSC shall adopt rules prohibiting discrimination based on immunization status.

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

Filed with the Office of the Secretary of State on January 24, 2025.

TRD-202500235

Karen Ray

Chief Counsel

Health and Human Services Commission

Effective date: February 13, 2025

Proposal publication date: September 13, 2024

For further information, please call: (512) 424-6580



## 26 TAC §§350.704, 350.706 - 350.709

### STATUTORY AUTHORITY

The amendments are adopted under Texas Government Code Section 531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, as well as Texas Government Code §2001.039, which requires a state agency to review and consider for readoption each of its rules every 4 years, and Texas Government Code §531.02119, which provides that the Executive Commissioner of HHSC shall adopt rules prohibiting discrimination based on immunization status.

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

Filed with the Office of the Secretary of State on January 24, 2025.

TRD-202500236

Karen Ray

Chief Counsel

Health and Human Services Commission

Effective date: February 13, 2025

Proposal publication date: September 13, 2024

For further information, please call: (512) 424-6580



## SUBCHAPTER H. ELIGIBILITY, EVALUATION, AND ASSESSMENT

### 26 TAC §350.801

#### STATUTORY AUTHORITY

The repeal is adopted under Texas Government Code Section 531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, as well as Texas Government Code §2001.039, which requires a state agency to review and consider for readoption each of its rules every 4 years, and Texas Government Code §531.02119, which provides that the Executive Commissioner of HHSC shall adopt rules prohibiting discrimination based on immunization status.

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

Filed with the Office of the Secretary of State on January 24, 2025.

TRD-202500237

Karen Ray

Chief Counsel

Health and Human Services Commission

Effective date: February 13, 2025

Proposal publication date: September 13, 2024

For further information, please call: (512) 424-6580



## 26 TAC §§350.805, 350.807, 350.809, 350.811, 350.813, 350.815, 350.817, 350.821, 350.823, 350.825, 350.829, 350.833, 350.835, 350.837

### STATUTORY AUTHORITY

The amendments are adopted under Texas Government Code Section 531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, as well as Texas Government Code §2001.039, which requires a state agency to review and consider for readoption each of its rules every 4 years, and Texas Government Code §531.02119, which provides that the Executive Commissioner of HHSC shall adopt rules prohibiting discrimination based on immunization status.

#### §350.813. *Deaf or Hard of Hearing.*

(a) The interdisciplinary team may not determine a child ineligible if the child is suspected to be deaf or hard of hearing until all evaluations and assessments required in this section have been completed and reviewed by the interdisciplinary team.

(b) The interdisciplinary team must determine any need for further hearing testing by analyzing risk factors and evaluation results during every evaluation to determine eligibility.

(1) Evaluation results must include the items listed in §350.809 (relating to Initial Eligibility Criteria).

(2) A hearing screening tool may be used when an evaluation tool is not administered for a child who is eligible based on a medical diagnosis or a child who meets the criteria of having a visual impairment as defined by 19 TAC §89.1040 (relating to Eligibility Criteria).

(c) The subrecipient must refer the child to a licensed audiologist if the child has been identified as having a need for further hearing testing and the child has not had a hearing test within the six months prior to identifying the need.

(1) If necessary to access a licensed audiologist, the subrecipient may refer the child to the child's primary health care provider.

(2) The referral must be made:

(A) within five working days; and

(B) with parental consent.

(d) If the subrecipient receives a hearing test that indicates the child is deaf or hard of hearing or receives documentation that the child has a medical condition that has a high probability of resulting in a de-

velopmental delay and sensory impairment, the subrecipient must enroll the child and make a referral to the LEA.

(1) The referral must be made within five business days after the subrecipient receives:

(A) the hearing test, in which case the referral must include results of the hearing test; or

(B) documentation indicating the child has a medical condition that has a high probability of resulting in a developmental delay and sensory impairment.

(2) Per 20 USC §1232g(b)(1)(A), parental consent is not required for this referral, but the parent must be notified that the referral is being made.

(3) If the child has not been tested by an audiologist, the subrecipient must assist the family in obtaining a hearing test and send the test results to the LEA within five business days of receiving the hearing test.

(e) The subrecipient must refer any child who uses amplification to the LEA.

(f) The Certified Teacher of the Deaf and Hard of Hearing from the LEA participates in the service planning process as part of the interdisciplinary team and, with written parental consent, completes any necessary evaluations.

#### §350.815. *Visual Impairment.*

(a) The interdisciplinary team may not determine a child ineligible if the child is suspected to be blind or visually impaired until all evaluations and assessments required in this section have been completed and reviewed by the interdisciplinary team.

(b) The interdisciplinary team must determine any need for further vision testing by analyzing risk factors and evaluation results during every evaluation to determine eligibility.

(1) Evaluation results must include the items listed in §350.809 (relating to Initial Eligibility Criteria).

(2) A vision screening tool may be used when an evaluation tool is not administered for a child who is eligible based on a qualifying medical diagnosis or because the child meets the definition of deaf or hard of hearing in 19 TAC §89.1040 (relating to Eligibility Criteria).

(c) The subrecipient must refer the child to an ophthalmologist or optometrist if the child has been identified as having a need for further vision testing and the child has not had a vision test within the six months prior to identifying the need.

(1) If necessary to access an ophthalmologist or optometrist, the subrecipient may refer the child to the child's primary health care provider.

(2) The referral must be made:

(A) within five working days; and

(B) with parental consent.

(d) If the subrecipient receives a vision test that indicates the child is blind or visually impaired or receives documentation that the child has a physical or mental condition that has a high probability of resulting in a developmental delay and a sensory impairment, the subrecipient must enroll the child and make a referral to the LEA. With written parental consent consistent with §350.207 of this chapter (relating to Parental Consent), the subrecipient must also refer the child to the local office of the Health and Human Services Blind Children's Vocational Discovery and Development Program.

(1) The referral must be made within five business days after the subrecipient receives:

(A) a vision test that indicates the child is blind or visually impaired, in which case the referral must include results of the vision test; or

(B) documentation indicating the child has a medical condition that has a high probability of resulting in a developmental delay and sensory impairment.

(2) Per 20 USC §1232g(b)(1)(A), parental consent is not required for the referral to the LEA, but the parent must be notified that the referral is being made.

(3) If the child has not been tested by an ophthalmologist, an optometrist, or a medical physician, the subrecipient must assist the family in obtaining a vision test and send the test results to the LEA within five business days of receiving the vision test.

(e) The certified teacher of students with visual impairments and the certified orientation and mobility specialist from the LEA participate in the service planning process as part of the interdisciplinary team and, with written parental consent, complete any necessary evaluations.

#### §350.833. *Autism Screening.*

(a) Autism screening is not required if the child has been screened for autism spectrum disorder by another entity or has been identified as having autism spectrum disorder.

(b) The subrecipient does not diagnose autism spectrum disorder.

(c) If an enrolled child is 18 months or older, the interdisciplinary team must determine if the child:

(1) has a family history of autism spectrum disorder;

(2) has lost previously acquired language or other communication skills or social skills; or

(3) exhibits a language or cognitive delay or unusual communication patterns combined with a social, emotional, or behavioral concern, including repetitive or stereotypical behaviors.

(d) If the interdisciplinary team identifies any of the issues in subsection (c) of this section, a member of the team must explain to the family the importance of early screening for autism spectrum disorder.

(e) The subrecipient must obtain written parental consent to refer the child to their licensed health care provider to complete an autism screening tool designated by HHSC ECI.

(f) If the child is not screened by the child's licensed health care provider or the subrecipient is unable to receive the screening from the child's licensed health care provider in a timely manner, the subrecipient must obtain written parental consent to:

(1) complete a screening for autism spectrum disorder using a tool designated as appropriate by HHSC ECI; and

(2) if appropriate, complete any additional follow-up activities for a child who does not pass the screening.

(g) The subrecipient must make appropriate referrals if needs are identified. Appropriate referrals may include:

(1) a referral to appropriate clinicians for a child who does not pass the designated screening; and

(2) the provision of case management to assist the parent with having an autism spectrum disorder screening done by the child's

licensed health care provider if they do not consent to a screening by the subrecipient.

(h) Screening for autism spectrum disorder using a tool designated as appropriate by HHSC ECI does not take the place of the appropriate evaluation of the child required under this subchapter.

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

Filed with the Office of the Secretary of State on January 24, 2025.

TRD-202500238

Karen Ray

Chief Counsel

Health and Human Services Commission

Effective date: February 13, 2025

Proposal publication date: September 13, 2024

For further information, please call: (512) 424-6580



## SUBCHAPTER J. INDIVIDUALIZED FAMILY SERVICE PLAN (IFSP)

### 26 TAC §350.1001

#### STATUTORY AUTHORITY

The repeal is adopted under Texas Government Code Section 531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, as well as Texas Government Code §2001.039, which requires a state agency to review and consider for readoption each of its rules every 4 years, and Texas Government Code §531.02119, which provides that the Executive Commissioner of HHSC shall adopt rules prohibiting discrimination based on immunization status.

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

Filed with the Office of the Secretary of State on January 24, 2025.

TRD-202500239

Karen Ray

Chief Counsel

Health and Human Services Commission

Effective date: February 13, 2025

Proposal publication date: September 13, 2024

For further information, please call: (512) 424-6580



### 26 TAC §§350.1003, 350.1004, 350.1007, 350.1009, 350.1015, 350.1017, 350.1019

#### STATUTORY AUTHORITY

The amendments are adopted under Texas Government Code Section 531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, as well as Texas Government Code §2001.039, which requires a state

agency to review and consider for readoption each of its rules every 4 years, and Texas Government Code §531.02119, which provides that the Executive Commissioner of HHSC shall adopt rules prohibiting discrimination based on immunization status.

§350.1009. *Participants in Initial and Annual Individualized Family Service Plan Meetings.*

(a) The initial IFSP meeting and each annual meeting to evaluate the IFSP must be conducted by the IFSP team as defined in §350.103 of this chapter (relating to Definitions) and 34 CFR §303.343(a).

(b) With parental consent, the subrecipient must also invite to the initial IFSP meeting and annual meetings to evaluate the IFSP:

(1) Early Head Start or Migrant Head Start staff members, if the family is jointly served by either of these programs; and

(2) representatives from other agencies serving or providing case management to the child or family, including Medicaid managed care programs.

(c) If a child:

(1) is documented to be deaf or hard of hearing as described in §350.809(2) of this chapter (relating to Initial Eligibility Criteria), the IFSP team for an initial IFSP meeting and annual IFSP evaluation meetings must include a certified teacher of the deaf and hard of hearing; or

(2) has a documented visual impairment as described in §350.809(2) of this chapter (relating to Initial Eligibility Criteria), the IFSP team for an initial IFSP meeting and annual IFSP evaluation meetings must include a teacher of students with visual impairments and a certified orientation and mobility specialist.

(d) Unless there is documentation that the LEA has waived notice, the subrecipient must:

(1) provide the certified teacher required in subsection (c) of this section at least a 10-day written notice before the initial IFSP meeting, any annual meetings to evaluate the IFSP, or any review and evaluation when issues will be addressed that are related to or affected by the child being deaf, hard of hearing, or visually impaired; and

(2) keep documentation of the notice in the child's record.

(e) The IFSP team cannot plan deaf and hard of hearing or vision services or make any changes that affect those services if the certified teacher required in subsection (c) of this section is not in attendance.

(f) The certified teacher required in subsection (c) of this section is not required to attend an IFSP review when the following criteria are met, but the subrecipient must obtain the teacher's input.

(1) The IFSP review does not affect the child's vision or hearing services.

(2) Changes made during the IFSP review are not affected by the child's hearing or visual status.

(g) The IFSP team must route the IFSP within two business days to the certified teacher required in subsection (c) of this section for review and signature when changes to the IFSP do not affect the child's deaf and hard of hearing or vision services.

(h) The certified teacher of the deaf and hard of hearing and the certified teacher of the students with visual impairments required in subsection (c) of this section may submit a request within five days of the IFSP meeting to have another IFSP meeting if the teacher disagrees with any portion of the IFSP.



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

Filed with the Office of the Secretary of State on January 24, 2025.

TRD-202500240

Karen Ray

Chief Counsel

Health and Human Services Commission

Effective date: February 13, 2025

Proposal publication date: September 13, 2024

For further information, please call: (512) 424-6580



## SUBCHAPTER K. SERVICE DELIVERY

### 26 TAC §350.1101

#### STATUTORY AUTHORITY

The repeal is adopted under Texas Government Code Section 531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, as well as Texas Government Code §2001.039, which requires a state agency to review and consider for re adoption each of its rules every 4 years, and Texas Government Code §531.02119, which provides that the Executive Commissioner of HHSC shall adopt rules prohibiting discrimination based on immunization status.

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

Filed with the Office of the Secretary of State on January 24, 2025.

TRD-202500241

Karen Ray

Chief Counsel

Health and Human Services Commission

Effective date: February 13, 2025

Proposal publication date: September 13, 2024

For further information, please call: (512) 424-6580



### 26 TAC §§350.1104, 350.1108, 350.1111

#### STATUTORY AUTHORITY

The amendments are adopted under Texas Government Code Section 531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, as well as Texas Government Code §2001.039, which requires a state agency to review and consider for re adoption each of its rules every 4 years, and Texas Government Code §531.02119, which provides that the Executive Commissioner of HHSC shall adopt rules prohibiting discrimination based on immunization status.

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

Filed with the Office of the Secretary of State on January 24, 2025.

TRD-202500242

Karen Ray

Chief Counsel

Health and Human Services Commission

Effective date: February 13, 2025

Proposal publication date: September 13, 2024

For further information, please call: (512) 424-6580



## SUBCHAPTER L. TRANSITION

### 26 TAC §350.1201

#### STATUTORY AUTHORITY

The repeal is adopted under Texas Government Code Section 531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, as well as Texas Government Code §2001.039, which requires a state agency to review and consider for re adoption each of its rules every 4 years, and Texas Government Code §531.02119, which provides that the Executive Commissioner of HHSC shall adopt rules prohibiting discrimination based on immunization status.

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

Filed with the Office of the Secretary of State on January 24, 2025.

TRD-202500243

Karen Ray

Chief Counsel

Health and Human Services Commission

Effective date: February 13, 2025

Proposal publication date: September 13, 2024

For further information, please call: (512) 424-6580



### 26 TAC §§350.1203, 350.1207, 350.1209, 350.1211, 350.1213, 350.1215, 350.1217, 350.1219, 350.1221

#### STATUTORY AUTHORITY

The amendments are adopted under Texas Government Code Section 531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, as well as Texas Government Code §2001.039, which requires a state agency to review and consider for re adoption each of its rules every 4 years, and Texas Government Code §531.02119, which provides that the Executive Commissioner of HHSC shall adopt rules prohibiting discrimination based on immunization status.

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

Filed with the Office of the Secretary of State on January 24, 2025.

TRD-202500244  
Karen Ray  
Chief Counsel  
Health and Human Services Commission  
Effective date: February 13, 2025  
Proposal publication date: September 13, 2024  
For further information, please call: (512) 424-6580



## SUBCHAPTER M. CHILD AND FAMILY OUTCOMES

### 26 TAC §350.1301

#### STATUTORY AUTHORITY

The repeal is adopted under Texas Government Code Section 531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, as well as Texas Government Code §2001.039, which requires a state agency to review and consider for re-adoption each of its rules every 4 years, and Texas Government Code §531.02119, which provides that the Executive Commissioner of HHSC shall adopt rules prohibiting discrimination based on immunization status.

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

Filed with the Office of the Secretary of State on January 24, 2025.

TRD-202500245  
Karen Ray  
Chief Counsel  
Health and Human Services Commission  
Effective date: February 13, 2025  
Proposal publication date: September 13, 2024  
For further information, please call: (512) 424-6580



### 26 TAC §350.1307, §350.1309

#### STATUTORY AUTHORITY

The amendments are adopted under Texas Government Code Section 531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, as well as Texas Government Code §2001.039, which requires a state agency to review and consider for re-adoption each of its rules every 4 years, and Texas Government Code §531.02119, which provides that the Executive Commissioner of HHSC shall adopt rules prohibiting discrimination based on immunization status.

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

Filed with the Office of the Secretary of State on January 24, 2025.

TRD-202500246

Karen Ray  
Chief Counsel  
Health and Human Services Commission  
Effective date: February 13, 2025  
Proposal publication date: September 13, 2024  
For further information, please call: (512) 424-6580



## SUBCHAPTER N. FAMILY COST SHARE SYSTEM

### 26 TAC §350.1401

#### STATUTORY AUTHORITY

The repeal is adopted under Texas Government Code Section 531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, as well as Texas Government Code §2001.039, which requires a state agency to review and consider for re-adoption each of its rules every 4 years, and Texas Government Code §531.02119, which provides that the Executive Commissioner of HHSC shall adopt rules prohibiting discrimination based on immunization status.

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

Filed with the Office of the Secretary of State on January 24, 2025.

TRD-202500248  
Karen Ray  
Chief Counsel  
Health and Human Services Commission  
Effective date: February 13, 2025  
Proposal publication date: September 13, 2024  
For further information, please call: (512) 424-6580



### 26 TAC §§350.1405, 350.1411, 350.1413, 350.1431, 350.1433

#### STATUTORY AUTHORITY

The amendments are adopted under Texas Government Code Section 531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, as well as Texas Government Code §2001.039, which requires a state agency to review and consider for re-adoption each of its rules every 4 years, and Texas Government Code §531.02119, which provides that the Executive Commissioner of HHSC shall adopt rules prohibiting discrimination based on immunization status.

§350.1413. *Individualized Family Service Plan Services Subject to Out-of-Pocket Payment.*

- (a) IFSP services subject to out-of-pocket payment are:
- (1) assistive technology;
  - (2) behavioral intervention;
  - (3) occupational therapy services;
  - (4) physical therapy services;
  - (5) speech-language pathology services;

- (6) nutrition services;
- (7) counseling services;
- (8) nursing services;
- (9) psychological services;
- (10) health services;
- (11) social work services;
- (12) transportation;
- (13) SST;
- (14) family education and training; and
- (15) any IFSP services to children with visual impairments or who are deaf or hard of hearing that are not part of a free appropriate public education provided by the LEA pursuant to Texas Education Code §29.003(b)(1) and Texas Administrative Code §89.1050(b).

(b) The family pays out-of-pocket up to their maximum charge. The family's maximum charge is determined based on their placement on the HHSC ECI sliding fee scale, as described in §350.1431 of this subchapter (relating to Texas Health and Human Services Commission Early Childhood Intervention Sliding Fee Scale).

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

Filed with the Office of the Secretary of State on January 24, 2025.

TRD-202500249  
 Karen Ray  
 Chief Counsel  
 Health and Human Services Commission  
 Effective date: February 13, 2025  
 Proposal publication date: September 13, 2024  
 For further information, please call: (512) 424-6580



## TITLE 28. INSURANCE

### PART 1. TEXAS DEPARTMENT OF INSURANCE

#### CHAPTER 34. STATE FIRE MARSHAL SUBCHAPTER C. STANDARDS AND FEES FOR STATE FIRE MARSHAL INSPECTIONS DIVISION 3. INSPECTION FEES

##### 28 TAC §34.340

The commissioner of insurance adopts amended 28 TAC §34.340, concerning payment of inspection fees. The amendment is adopted without changes to the proposed text published October 25, 2024, issue of the *Texas Register* (49 TexReg 8543) and will not be republished.

REASONED JUSTIFICATION. The amendment adds the option of using online payment for inspection fees. This change will make the payment process easier and more efficient for both staff and customers. In 2025, the State Fire Marshal's Office

will implement new technology to support electronic payments, making transactions simpler and more convenient.

SUMMARY OF COMMENTS. The Texas Department of Insurance (TDI) provided an opportunity for public comment on the rule proposal for a period that ended on November 25, 2024. TDI did not receive any comments on the proposed amendment.

STATUTORY AUTHORITY. The commissioner adopts the amendment to §34.340 under Government Code §417.005 and §417.008(f), and Insurance Code §36.001.

Government Code §417.005 states that the commissioner, after consulting with the state fire marshal, may adopt rules necessary to guide the state fire marshal in the performance of duties.

Government Code §417.008(f) provides that the commissioner, by rule, must prescribe a reasonable fee for an inspection performed by the state fire marshal.

Insurance Code §36.001 provides that the commissioner may adopt any rules necessary and appropriate to implement the powers and duties of TDI under the Insurance Code and other laws of this state.

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

Filed with the Office of the Secretary of State on January 23, 2025.

TRD-202500206  
 Jessica Barta  
 General Counsel  
 Texas Department of Insurance  
 Effective date: February 12, 2025  
 Proposal publication date: October 25, 2024  
 For further information, please call: (512) 676-6555



## TITLE 34. PUBLIC FINANCE

### PART 1. COMPTROLLER OF PUBLIC ACCOUNTS

#### CHAPTER 9. PROPERTY TAX ADMINISTRATION

##### SUBCHAPTER H. TAX RECORD REQUIREMENTS

##### 34 TAC §9.3031

The Comptroller of Public Accounts adopts amendments to §9.3031, concerning rendition forms, without changes to the proposed text as published in the October 18, 2024, issue of the *Texas Register* (49 TexReg 8471). The rule will not be republished.

These amendments are to reflect updates to rendition forms and are necessary to implement House Bill 2121, 88th Legislature, R.S., 2023.

The amendments rename the title of model rendition form 50-142 in subsection (d)(2) to General Personal Property Rendition of Taxable Property; form 50-143 in subsection (d)(3) to Rendition

of Residential Real Property Inventory; form 50-149 in subsection (d)(6) to Real Property Rendition of Taxable Property; form 50-150 in subsection (d)(7) to Oil and Gas Property Rendition of Taxable Property; form 50-151 in subsection (d)(8) to Mine and Quarry Rendition of Taxable Property.

The amendments also combine former model rendition forms 50-152 (Telephone Company Rendition of Taxable Property), 50-153 (REA-Financed Telephone Company Rendition of Taxable Property), 50-154 (Electric Company and Electric Cooperative Rendition of Taxable Property), and 50-155 (Gas Distribution Utility Rendition of Taxable Property) into one consolidated model rendition form in subsection (d)(9): 50-152 (Utility Rendition of Taxable Property). The remainder of the amendments to subsection (d) reorganize the model rendition forms in numerical order. The referenced forms have been updated to implement new subsection 22.24(e)(5), Tax Code and may be viewed at <https://comptroller.texas.gov/taxes/property-tax/forms/>.

The comptroller received comments regarding adoption of the amendment from Rodney Kret. Mr. Kret proposes changing the current title of the comptroller's adopted Rendition of Residential Real Property Inventory (Form 50-143) to Residential Real Property Rendition of Inventory (Form 50-143). He suggests that making this change will maintain consistency with the syntax for the names of the comptroller's adopted forms, leading them off with the category of property. The comptroller thanks Mr. Kret for submitting this comment but declines to make this change because the current title adequately describes the functions of the form.

The amendments are adopted under Tax Code, §5.03 (Powers and Duties Generally), which authorizes the comptroller to adopt rules establishing minimum standards for the administration and operation of an appraisal district.

These amendments implement Tax Code, §22.24 (Rendition and Report Forms).

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

Filed with the Office of the Secretary of State on January 22, 2025.

TRD-202500202

Victoria North

General Counsel for Fiscal and Agency Affairs

Comptroller of Public Accounts

Effective date: February 11, 2025

Proposal publication date: October 18, 2024

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



## TITLE 43. TRANSPORTATION

### PART 3. MOTOR VEHICLE CRIME PREVENTION AUTHORITY

#### CHAPTER 57. MOTOR VEHICLE CRIME PREVENTION AUTHORITY

43 TAC §§57.9, 57.14, 57.27, 57.29, 57.48, 57.50 - 57.52

INTRODUCTION. The Motor Vehicle Crime Prevention Authority (authority) adopts amendments to 43 Texas Administrative Code (TAC) Chapter 57, §§57.9, 57.14; 57.27, 57.29, 57.48, 57.50 - 57.52. The authority adopts §§57.9, 57.14, 57.27, 57.29, 57.48, 57.50 - 57.52 without changes to the proposed text as published in the November 8, 2024, issue of the *Texas Register* (49 TexReg 8834). The rules will not be republished.

The adopted revisions in Chapter 57 are necessary to bring the rules into alignment with statute; remove language that is redundant with statute; to clarify existing requirements; to modernize language; to improve readability through the use of consistent terminology; to clarify or delete unused, archaic, or inaccurate definitions, terms, and references or other language; to clarify existing requirements; and more specifically describe the authority's methods and procedures.

REASONED JUSTIFICATION. The authority is conducting a review of its rules in Chapter 57 in compliance with Government Code, §2001.039. Notice of the authority's Intention to Readopt Chapter 57 is published in this issue of the *Texas Register*. As a part of the rule review, the authority is adopting necessary amendments as detailed in the following paragraphs.

An adopted amendment adds new §57.9(f) to clarify that grantees who are in violation of the MVCPA's non-supplanting requirement may be required by the Board to return supplanted funds to the MVCPA. An adopted amendment to §57.14(b)(4) clarifies that a project eligible for grant funding to address a reduction in the sale of stolen auto parts can include projects designed to reduce the sale of stolen catalytic converters, in furtherance of Senate Bill (SB) 224, 89<sup>th</sup> Legislature, Regular Session (2023). Adopted new §57.14(b)(6) adds "preventing stolen motor vehicles from entering Mexico" as a project goal for which the MVCPA can provide grant funding, to align the rule with Transportation Code, Chapter 1006.

Adopted amendments to §57.27(a)(1), (a)(2), (c), (d) and (f) clarify language and improve readability without changing the meaning of the rule. Adopted new §57.27(g) clarifies that MVCPA grantees do not have a statutory right to a contested case proceeding to determine whether a deficient condition described in §57.27(a) exists or has been resolved.

Adopted amendments to §57.29(d) and (e) modernize language and improve readability.

An adopted amendment to §57.48(b) updates the titles of two Comptroller of Public Accounts forms used by insurers to pay the MVCPA fee with correct language and clarifies that the forms may be obtained in electronic format on the Comptroller's website.

An adopted amendment to §57.50 updates the section title to reflect the official agency name of the Texas Department of Insurance. Adopted amendments to the body of the rule align the section with Transportation Code, Chapter 1006.

Adopted amendments to §57.51(a), (b), and (c) add "designee," "MVCPA," and "MVCPA board" in several places to clarify the initial submission procedures for insurers requesting refund determinations. The adopted amendments improve readability through the use of consistent terminology.

Adopted amendments to §57.52 update the section title to clarify that both penalties and interest may be assessed for a late payment of the fee. Additionally, the adopted amendments add the word "late" to the section title to clarify that a violation of the

section can also occur for the late filing of the report of the fee and result in a penalty being assessed against an insurer.

An adopted amendment to §57.52(a) and (a)(1) remove language concerning the late filing of the report of the fee from subsection (a) and place it in new subsection (b) for clarity and ease of reference. The adopted amendments for subsection (a) clarifies that an insurer shall be assessed a penalty for the late payment of the fee in accordance with Tax Code, §111.061(a). Adopted new subsection (b) clarifies that a penalty of \$50 will be assessed against an insurer for the late filing of the report of the fee. The \$50 penalty for the late filing of a report follows the Texas Comptroller's Office current practice of charging a \$50 fee involving a late filing of a report by a taxpayer.

An adopted amendment to new §57.52(c)(1) increases the time period in which an insurer may submit a prescribed form to the MVCPA director to appeal the assessment of penalties and/or interest against an insurer from thirty days to sixty days. Currently, billing statements are mailed out up to two weeks after the balance shows and some insurers have complained that they did not receive notification until after the thirty-day period has expired. The adopted amendment allows insurers sufficient additional time to review the MVCPA director's decision and consider whether to appeal.

Additional non-substantive amendments are adopted throughout Chapter 57 to correct punctuation, grammar, and capitalization.

#### SUMMARY OF COMMENTS.

No comments on the proposed amendments were received.

**STATUTORY AUTHORITY.** The amendments are adopted under Transportation Code, §1006.101, which requires the authority to adopt rules to implement the authority's powers and duties.

**CROSS REFERENCE TO STATUTE.** The adopted amendments would implement Transportation Code §1006.101, and §1006.153.

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

Filed with the Office of the Secretary of State on January 24, 2025.

TRD-202500247

David Richards

General Counsel

Motor Vehicle Crime Prevention Authority

Effective date: February 13, 2025

Proposal publication date: November 8, 2024

For further information, please call: (512) 465-1423

