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# TEXAS REGISTER

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# TEXAS REGISTER

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(512) 463-5561  
FAX (512) 463-5569

<https://www.sos.texas.gov>  
[register@sos.texas.gov](mailto:register@sos.texas.gov)

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Jay Davidson

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Laura Levack

Matthew Muir

Breanna Mutschler

# IN THIS ISSUE

## **GOVERNOR**

Proclamation 41-4165 .....	709
Proclamation 41-4166 .....	709

## **ATTORNEY GENERAL**

Requests for Opinions .....	711
Opinions .....	711

## **PROPOSED RULES**

### **TEXAS HEALTH AND HUMAN SERVICES COMMISSION**

#### MEDICAID MANAGED CARE

1 TAC §353.1415 .....	713
-----------------------	-----

### **TEXAS HIGHER EDUCATION COORDINATING BOARD**

#### AGENCY ADMINISTRATION

19 TAC §§1.213 - 1.219 .....	715
19 TAC §§1.230 - 1.236 .....	715

#### ACADEMIC AND WORKFORCE EDUCATION

19 TAC §2.207 .....	716
---------------------	-----

#### GRANT PROGRAMS

19 TAC §§10.1 - 10.8 .....	717
----------------------------	-----

#### FINANCIAL PLANNING

19 TAC §§13.470 - 13.477 .....	719
19 TAC §13.556, §13.557 .....	720

#### STUDENT SERVICES

19 TAC §§21.468 - 21.474 .....	724
--------------------------------	-----

#### STUDENT FINANCIAL AID PROGRAMS

19 TAC §§22.22 - 22.30 .....	725
19 TAC §§22.226 - 22.231, 22.233, 22.234, 22.236, 22.238, 22.241 .....	729
19 TAC §§22.254 - 22.262, 22.264, 22.265 .....	735

### **TEXAS BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS**

#### LICENSING FOR ENGINEERS

22 TAC §133.27 .....	740
----------------------	-----

### **HEALTH AND HUMAN SERVICES COMMISSION**

#### INDEPENDENT LIVING SERVICES PROGRAM

26 TAC §§357.101, 357.103, 357.105, 357.107 .....	743
26 TAC §357.201 .....	745
26 TAC §§357.305, 357.307, 357.309, 357.311 .....	746
26 TAC §§357.401, 357.403, 357.405 .....	748
26 TAC §357.501, §357.503 .....	750

26 TAC §357.601 .....	751
26 TAC §357.701 .....	751

## **ADOPTED RULES**

### **TEXAS HIGHER EDUCATION COORDINATING BOARD**

#### AGENCY ADMINISTRATION

19 TAC §§1.121 - 1.127 .....	753
19 TAC §§1.178 - 1.184 .....	753
19 TAC §§1.199 - 1.205 .....	753
19 TAC §§1.206 - 1.212 .....	754
19 TAC §§1.9100 - 1.9106 .....	754
19 TAC §§1.9531 - 1.9536 .....	754
19 TAC §§1.9541 - 1.9546 .....	755

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

19 TAC §4.5 .....	755
19 TAC §4.9 .....	755

#### HEALTH EDUCATION, TRAINING, AND RESEARCH FUNDS

19 TAC §6.74 .....	756
--------------------	-----

#### PROGRAM DEVELOPMENT IN PUBLIC TWO-YEAR COLLEGES

19 TAC §§9.91 - 9.96 .....	756
19 TAC §§9.111 - 9.118 .....	757
19 TAC §§9.161 - 9.163 .....	757

#### GRANT PROGRAMS

19 TAC §§10.70 - 10.78 .....	757
------------------------------	-----

#### RESEARCH FUNDING PROGRAMS

19 TAC §14.1, §14.2 .....	760
19 TAC §§14.11 - 14.13 .....	760
19 TAC §§14.31 - 14.33 .....	760
19 TAC §§14.51 - 14.53 .....	760
19 TAC §§14.72 - 14.79 .....	760
19 TAC §§14.91 - 14.95 .....	761

#### STUDENT FINANCIAL AID PROGRAMS

19 TAC §22.7 .....	761
19 TAC §§22.113 - 22.115 .....	761
19 TAC §§22.128 - 22.131, 22.133, 22.135 .....	762
19 TAC §§22.163 - 22.170 .....	763
19 TAC §§22.201 - 22.210 .....	764
19 TAC §§22.550, 22.552, 22.553, 22.555 .....	765

**TEXAS EDUCATION AGENCY**

**ADAPTATIONS FOR SPECIAL POPULATIONS**

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 .....765

**PLANNING AND ACCOUNTABILITY**

19 TAC §97.1003 .....768

**DEPARTMENT OF STATE HEALTH SERVICES**

**MISCELLANEOUS PROVISIONS**

25 TAC §1.151, §1.152 .....770

25 TAC §1.151, §1.152 .....771

**MATERNAL AND INFANT HEALTH SERVICES**

25 TAC §37.401 .....771

**EMERGENCY MEDICAL CARE**

25 TAC §157.11 .....772

**HEALTH AND HUMAN SERVICES COMMISSION**

**EARLY CHILDHOOD INTERVENTION SERVICES**

26 TAC §350.101 .....777

26 TAC §350.103, §350.107 .....777

26 TAC §350.201 .....779

26 TAC §350.209, §350.225 .....780

26 TAC §350.301 .....780

26 TAC §§350.303, 350.309, 350.312, 350.313, 350.315 .....780

26 TAC §§350.403 - 350.407, 350.411, 350.415 .....780

26 TAC §350.501, §350.507 .....781

26 TAC §350.601 .....781

26 TAC §§350.605, 350.607, 350.609, 350.611, 350.613, 350.615, 350.617 .....781

26 TAC §350.701 .....781

26 TAC §§350.704, 350.706 - 350.709 .....782

26 TAC §350.801 .....782

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 .....782

26 TAC §350.1001 .....784

26 TAC §§350.1003, 350.1004, 350.1007, 350.1009, 350.1015, 350.1017, 350.1019 .....784

26 TAC §350.1101 .....785

26 TAC §§350.1104, 350.1108, 350.1111 .....785

26 TAC §350.1201 .....785

26 TAC §§350.1203, 350.1207, 350.1209, 350.1211, 350.1213, 350.1215, 350.1217, 350.1219, 350.1221 .....785

26 TAC §350.1301 .....786

26 TAC §350.1307, §350.1309 .....786

26 TAC §350.1401 .....786

26 TAC §§350.1405, 350.1411, 350.1413, 350.1431, 350.1433 .....786

**TEXAS DEPARTMENT OF INSURANCE**

**STATE FIRE MARSHAL**

28 TAC §34.340 .....787

**COMPTROLLER OF PUBLIC ACCOUNTS**

**PROPERTY TAX ADMINISTRATION**

34 TAC §9.3031 .....787

**MOTOR VEHICLE CRIME PREVENTION AUTHORITY**

**MOTOR VEHICLE CRIME PREVENTION AUTHORITY**

43 TAC §§57.9, 57.14, 57.27, 57.29, 57.48, 57.50 - 57.52 .....788

**RULE REVIEW**

**Proposed Rule Reviews**

Texas Higher Education Coordinating Board .....791

**Adopted Rule Reviews**

Texas Higher Education Coordinating Board .....791

Department of State Health Services .....792

Texas Municipal Retirement System .....792

Motor Vehicle Crime Prevention Authority .....792

**IN ADDITION**

**Texas State Affordable Housing Corporation**

Notice of Request for Proposals for Financial Advisor Services ...793

Notice of Request for Proposals for Single Family Programs Counsel .....793

Notice of Request for Proposals for Website Redesign Services ....793

**Comptroller of Public Accounts**

Notice of Eligibility of Appraised Value .....793

**Office of Consumer Credit Commissioner**

Notice of Rate Ceilings .....793

**Texas Commission on Environmental Quality**

Agreed Orders .....793

Notice of a Public Meeting and a Proposed Renewal with Amendment of General Permit WQG100000 Authorizing the Disposal of Wastewater .....796

Notice of Correction to Agreed Order Number 7 (0129T) .....797

Notice of Correction to Agreed Order Number 24 .....797

Notice of District Petition - TCEQ Internal Control No. D-12172024-032 .....797

Update to the Water Quality Management Plan (WQMP) .....798

**General Land Office**

Notice and Opportunity to Comment on Requests for Consistency Agreement/Concurrence Under the Texas Coastal Management Program .....799

**Texas Health and Human Services Commission**

Notice of Public Hearing on Proposed Rule Amendments for Reimbursement Methodology for Physician and Other Practitioners, and Reimbursement Methodologies for Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Services.....799

**Texas Department of Housing and Community Affairs**

Correction of Dates for Comment Period .....800

**Texas Department of Insurance**

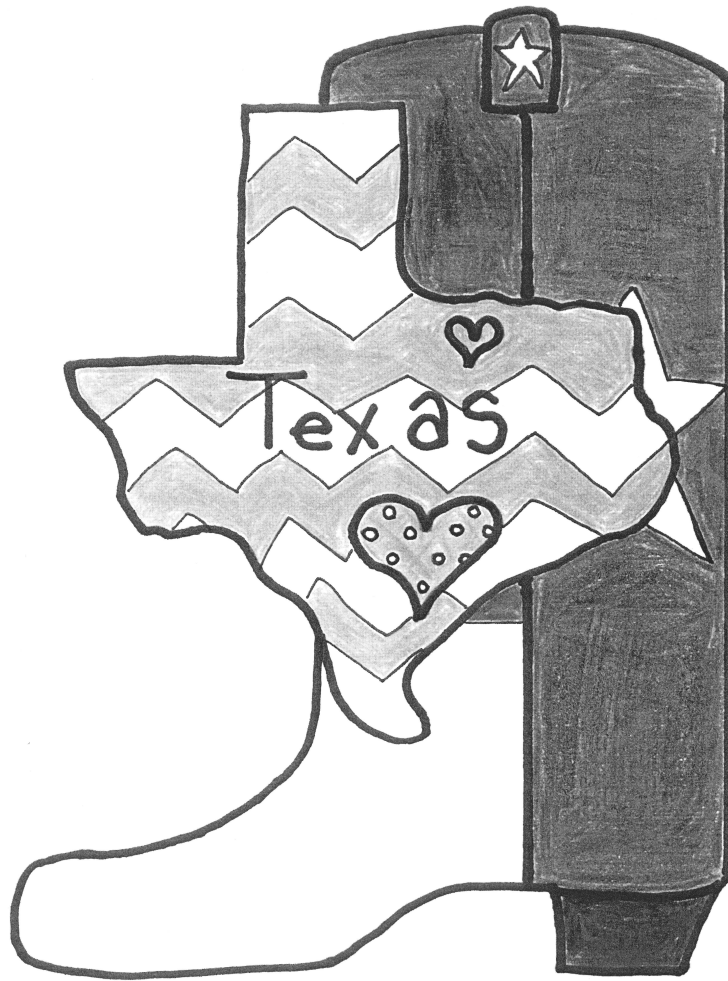
Company Licensing .....800

**Texas Department of Licensing and Regulation**

Notice of Vacancies on Texas Water Well Drillers Advisory Council.....800

**North Central Texas Council of Governments**

Request for Proposals RAISE FY21 EV Charging Stations.....801



# THE GOVERNOR

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

Proclamation 41-4165

**TO ALL TO WHOM THESE PRESENTS SHALL COME:**

WHEREAS, I, Greg Abbott, Governor of Texas, issued a disaster proclamation on May 31, 2021, certifying under Section 418.014 of the Texas Government Code that the surge of individuals unlawfully crossing the Texas-Mexico border posed an ongoing and imminent threat of disaster for a number of Texas counties and for all state agencies affected by this disaster; and

WHEREAS, I amended the aforementioned proclamation in a number of subsequent proclamations, including to modify the list of affected counties and therefore declare a state of disaster for those counties and for all state agencies affected by this disaster; and

WHEREAS, the certified conditions continue to exist and pose an ongoing and imminent threat of disaster as set forth in the prior proclamations;

NOW, THEREFORE, in accordance with the authority vested in me by Section 418.014 of the Texas Government Code, I do hereby renew the aforementioned proclamation and declare a disaster for Aransas, Atascosa, Bee, Brewster, Brooks, Caldwell, Calhoun, Cameron, Chambers, Coleman, Colorado, Crane, Crockett, Culberson, DeWitt, Dimmit, Duval, Edwards, El Paso, Frio, Galveston, Goliad, Gonzales, Hidalgo, Hudspeth, Jackson, Jeff Davis, Jim Hogg, Jim Wells, Kenedy, Kerr, Kimble, Kinney, Kleberg, La Salle, Lavaca, Live Oak, Mason, Maverick, McCulloch, McMullen, Medina, Menard, Midland, Pecos, Presidio, Real, Refugio, San Jacinto, San Patricio, Schleicher, Shackelford, Sutton, Terrell, Throckmorton, Uvalde, Val Verde, Victoria, Webb, Wharton, Wilbarger, Wilson, Zapata, and Zavala Counties and for all state agencies affected by this disaster. All orders, directions, suspensions, and authorizations provided in the Proclamation of May 31, 2021, as amended and renewed in subsequent proclamations, are in full force and effect.

In accordance with the statutory requirements, copies of this proclamation shall be filed with the applicable authorities.

IN TESTIMONY WHEREOF, I have hereunto signed my name and have officially caused the Seal of State to be affixed at my office in the City of Austin, Texas, this the 22nd day of January, 2025.

Greg Abbott, Governor

TRD-202500282



Proclamation 41-4166

**TO ALL TO WHOM THESE PRESENTS SHALL COME:**

WHEREAS, I, GREG ABBOTT, Governor of the State of Texas, issued a disaster proclamation on July 8, 2022, as amended and renewed

in a number of subsequent proclamations, certifying that exceptional drought conditions posed a threat of imminent disaster in several counties; and

WHEREAS, the Texas Division of Emergency Management has confirmed that those same drought conditions persist in certain counties in Texas;

NOW, THEREFORE, in accordance with the authority vested in me by Section 418.014 of the Texas Government Code, I do hereby amend and renew the aforementioned proclamation and declare a disaster in Aransas, Atascosa, Bandera, Bastrop, Bee, Bexar, Blanco, Brewster, Burnet, Caldwell, Calhoun, Cameron, Childress, Clay, Collingsworth, Colorado, Comal, Crane, Culberson, Donley, El Paso, Foard, Franklin, Frio, Gillespie, Goliad, Grayson, Guadalupe, Hall, Hardeman, Hays, Hidalgo, Hudspeth, Jeff Davis, Jim Wells, Karnes, Kendall, Kerr, Kleberg, Lampasas, Lavaca, Live Oak, Llano, Loving, Lubbock, Matagorda, Maverick, Medina, Midland, Mitchell, Montgomery, Nueces, Pecos, Presidio, Real, Reeves, San Patricio, Scurry, Terrell, Travis, Uvalde, Val Verde, Ward, Washington, Wharton, Wichita, Willacy, Williamson, Wilson, Winkler, and Zapata Counties.

Pursuant to Section 418.017 of the Texas Government Code, I authorize the use of all available resources of state government and of political subdivisions that are reasonably necessary to cope with this disaster.

Pursuant to Section 418.016 of the Texas Government Code, any regulatory statute prescribing the procedures for conduct of state business or any order or rule of a state agency that would in any way prevent, hinder, or delay necessary action in coping with this disaster shall be suspended upon written approval of the Office of the Governor. However, to the extent that the enforcement of any state statute or administrative rule regarding contracting or procurement would impede any state agency's emergency response that is necessary to protect life or property threatened by this declared disaster, I hereby authorize the suspension of such statutes and rules for the duration of this declared disaster.

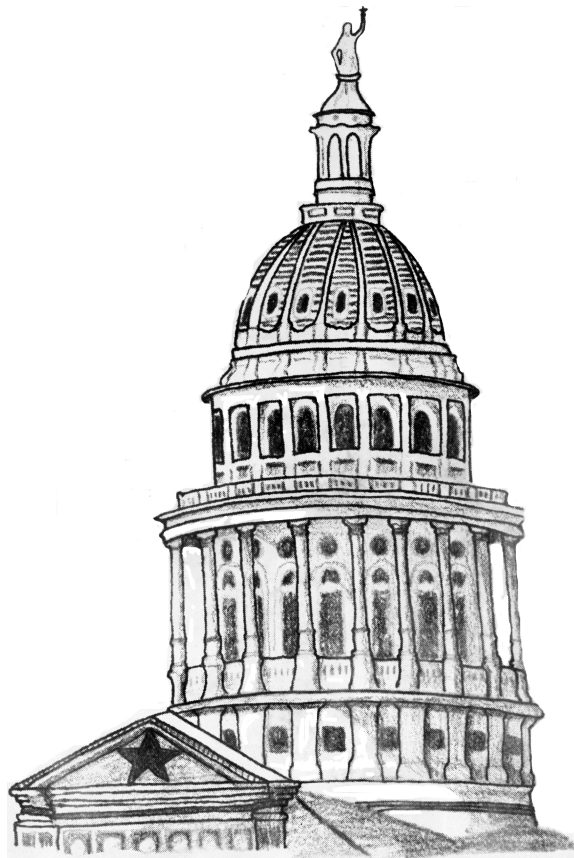
In accordance with the statutory requirements, copies of this proclamation shall be filed with the applicable authorities.

IN TESTIMONY WHEREOF, I have hereunto signed my name and have officially caused the Seal of State to be affixed at my office in the City of Austin, Texas, this the 22nd day of January, 2025.

Greg Abbott, Governor

TRD-202500283







# THE ATTORNEY GENERAL

The *Texas Register* publishes summaries of the following: Requests for Opinions, Opinions, and Open Records Decisions.

An index to the full text of these documents is available on the Attorney General's website at <https://www.texas.attorneygeneral.gov/attorney-general-opinions>. For information about pending requests for opinions, telephone (512) 463-2110.

An Attorney General Opinion is a written interpretation of existing law. The Attorney General writes opinions as part of his responsibility to act as legal counsel for the State of Texas. Opinions are written only at the request of certain state officials. The Texas Government Code indicates to whom the Attorney General may provide a legal opinion. He may not write legal opinions for private individuals or for any officials other than those specified by statute. (Listing of authorized requestors: <https://www.texasattorneygeneral.gov/attorney-general-opinions>.)

## Requests for Opinions

### RQ-0575-KP

#### Requestor:

Mr. Eric Burnett  
Board President  
Nueces River Authority  
539 South Highway 83  
Uvalde, Texas 78801

Re: Interpretation of the recusal standard under Texas Government Code § 572.058(a) (RQ-0575 KP)

#### Briefs requested by January 31, 2025

### RQ-0576-KP

#### Requestor:

Ms. Gloria Meraz  
Director and Librarian  
Texas State Library Archives Commission  
Post Office Box 12927  
Austin, Texas 78711-2927

Re: Whether juvenile criminal case records constitute permanent records under Chapter 58 of the Family Code (RQ-0576-KP)

#### Briefs requested by February 21, 2025

*For further information, please access the website at [www.texasattorneygeneral.gov](http://www.texasattorneygeneral.gov) or call the Opinion Committee at (512) 463-2110.*

TRD-202500292  
Justin Gordon  
General Counsel  
Office of the Attorney General  
Filed: January 28, 2025



## Opinions

### Opinion No. KP-0477

The Honorable Donna Campbell, M.D.  
Chair, Senate Committee on Nominations

## Texas State Senate

Post Office Box 12068  
Austin, Texas 78711-2068

Re: Whether electronic notice captured by a QR code on a traffic violation card satisfies the notice requirements of Transportation Code sections 543.003 and 543.004 (RQ-0552-KP)

### S U M M A R Y

A court could conclude that providing an alleged violator with a card containing the time of appearance, place of appearance, and citation number along with a QR code, which serves as an electronic link to access the complete citation for certain misdemeanor traffic violations, satisfies the requirements of Transportation Code sections 543.003 and 543.004 as well as related provisions.

### Opinion No. KP-0478

The Honorable Phil Sorrells  
Tarrant County Criminal District Attorney  
401 West Belknap  
Fort Worth, Texas 76196

Re: Applicability of article 39.14 of the Code of Criminal Procedure to third-party records in the possession of the local juvenile justice agency and used in support of its social history report to the juvenile court (RQ-0532-KP)

### S U M M A R Y

At a disposition hearing conducted under Family Code section 54.04, a juvenile court may consider a social history report prepared by a juvenile probation officer. A local juvenile probation department is not "the state" for purposes of Code of Criminal Procedure article 39.14 and not subject to disclosure duties on that basis. Code of Criminal Procedure article 2A.209 does not require a local juvenile probation department to disclose documents used to prepare social history reports to the prosecution. Determining whether such documents must be disclosed under *Brady v. Maryland* is a fact-specific inquiry that cannot be addressed in an Attorney General opinion.

Family Code subsection 54.04(b) requires that a child's attorney be given access to documents appended to a social history report. Subsection 54.04(b) does not apply to documents that are not considered by a juvenile court at the disposition hearing. A child's attorney may subpoena confidential or privileged documents used to prepare a social history report pursuant to Code of Criminal Procedure article 24.02.

Such documents are subject to mandatory in-camera review before disclosure if favorable to the child and otherwise to permissive in-camera review in relation to deciding a motion to quash.

**Opinion No. KP-0479**

Ms. Cindy Havelka

Fayette County Auditor

143 North Main Street, Suite A

La Grange, Texas 78945

Re: Authority of a sheriff to contract with other local governments and private entities for the off-duty work of sheriff deputies in certain circumstances (RQ-0538-KP)

**S U M M A R Y**

Only the commissioners court may generally contract for the authorized provision of law enforcement services involving county business.

Texas law recognizes the practice of law enforcement officers providing private-security services, outside of that provided to a county, for direct compensation.

The status of a school district as a political subdivision does not affect its statutory authority to directly contract for private-security services by a law enforcement officer.

No statute conditions the provision of private-security services on the presence of a mass gathering of people.

*For further information, please access the website at [www.texasattorneygeneral.gov](http://www.texasattorneygeneral.gov) or call the Opinion Committee at (512) 463-2110.*

TRD-202500293

Justin Gordon

General Counsel

Office of the Attorney General

Filed: January 28, 2025



# PROPOSED RULES

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

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

## TITLE 1. ADMINISTRATION

### PART 15. TEXAS HEALTH AND HUMAN SERVICES COMMISSION

#### CHAPTER 353. MEDICAID MANAGED CARE SUBCHAPTER P. MENTAL HEALTH TARGETED CASE MANAGEMENT AND MENTAL HEALTH REHABILITATION

##### 1 TAC §353.1415

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC) proposes an amendment to §353.1415, concerning Staff Member Credentialing.

##### BACKGROUND AND PURPOSE

Texas Government Code §533.00255(d)(2) requires HHSC to ensure that providers in the Behavioral Health and Physical Services Network in §533.00255 are well-qualified and able to provide an appropriate array of services.

The proposed amendment expands the minimum qualifications for a Qualified Mental Health Professional-Community Services (QMHP-CS) credential to help address mental health workforce shortages.

Currently, the qualifications for a QMHP-CS credential include an option for individuals with a bachelor's degree in a human services discipline to meet the criteria. The proposed amendment expands the list of acceptable human services degrees to include a bachelor's degree in human development and family sciences, public health or child and family welfare.

In addition, the proposed amendment includes a new option for individuals with a non-human services bachelor's degree to meet the criteria for a QMHP-CS credential if the individual has at least one year of documented experience as an intern or employee in a program that provides mental health or substance use services.

The proposed amendment to §353.1415 also updates rule formatting; updates a rule reference; and removes ambiguous language to align more closely with updates to the Texas Medicaid medical policies and state plan for Mental Health Targeted Case Management and Mental Health Rehabilitation Services.

##### FISCAL NOTE

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

##### GOVERNMENT GROWTH IMPACT STATEMENT

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

- (1) the proposed rule will not create or eliminate a government program;
- (2) implementation of the proposed rule will not affect the number of HHSC employee positions;
- (3) implementation of the proposed rule will result in no assumed change in future legislative appropriations;
- (4) the proposed rule will not affect fees paid to HHSC;
- (5) the proposed rule will not create new regulations;
- (6) the proposed rule will expand an existing regulation;
- (7) the proposed rule will increase the number of individuals subject to the rule; and
- (8) HHSC has insufficient information to determine the proposed rule's effect on the state's economy.

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

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

##### LOCAL EMPLOYMENT IMPACT

The proposed rule will not affect a local economy.

##### COSTS TO REGULATED PERSONS

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

##### PUBLIC BENEFIT AND COSTS

Emily Zalkovsky, State Medicaid Director, has determined that for each year of the first five years the rule is in effect, the public benefit will be increased access to Texas Medicaid Mental Health Targeted Case Management and Mental Health Rehabilitative services by expanding the applicant pool of individuals who meet the qualifications of a QMHP-CS who primarily delivers these services.

Trey Wood has also determined that for the first five years the rule is in effect, there are no anticipated economic costs to persons who are required to comply with the proposed rule because there are no costs associated with expanding the qualifications of a QMHP-CS.

## TAKINGS IMPACT ASSESSMENT

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

## PUBLIC COMMENT

Written comments on the proposal may be submitted to Rules Coordination Office, P.O. Box 13247, Mail Code 4102, Austin, Texas 78711-3247, or street address 4601 West Guadalupe Street, Austin, Texas 78751; or emailed to [HHSCRulesCoordinationOffice@hhs.texas.gov](mailto:HHSCRulesCoordinationOffice@hhs.texas.gov).

To be considered, comments must be submitted no later than 31 days after the date of this issue of the *Texas Register*. Comments must be (1) postmarked or shipped before the last day of the comment period; (2) hand-delivered before 5:00 p.m. on the last working day of the comment period; or (3) emailed before midnight on the last day of the comment period. If the last day to submit comments falls on a holiday, comments must be postmarked, shipped, or emailed before midnight on the following business day to be accepted. When emailing comments, please indicate "Comments on Proposed Rule 24R081" in the subject line.

## STATUTORY AUTHORITY

The amendment is authorized by Texas Government Code §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; and Texas Government Code §531.033, which provides the Executive Commissioner of HHSC with broad rulemaking authority; Texas Human Resources Code §32.021, which provides HHSC with the authority to administer the federal medical assistance program in Texas and to adopt rules and standards for program administration; and Texas Government Code §533.00255(i) which requires the Commissioner to adopt rules necessary to implement Texas Government Code §533.00255, concerning the behavioral health and physical health services network.

The amendment implements Texas Government Code §531.0055 and §533.00255(d)(2).

### §353.1415. Staff Member Credentialing.

(a) ~~QMHP-CS [Qualified Mental Health Professional-Community Services (QMHP-CS)]. A [staff member must meet at least one of three minimum requirements to be credentialed as a] QMHP-CS must have the following minimum requirements:~~

- (1) ~~completed a standardized training curriculum;~~
- (2) ~~demonstrated competency in the work to be performed;~~
- (3) ~~obtained one of the following:~~

~~(A) [(4)] a [The staff member has at least a] bachelor's degree in one of the following disciplines from an accredited college or university [and a minimum number of hours that is equivalent to a major in]:~~

- ~~(i) psychology;[;]~~
- ~~(ii) social work;[;]~~
- ~~(iii) medicine;[;]~~
- ~~(iv) nursing;[;]~~

- ~~(v) rehabilitation;[;]~~
- ~~(vi) counseling;[;]~~
- ~~(vii) sociology;[;]~~
- ~~(viii) human growth and development;[;]~~
- ~~(ix) physician assistant;[;]~~
- ~~(x) gerontology;[;]~~
- ~~(xi) special education;[;]~~
- ~~(xii) educational psychology;[;]~~
- ~~(xiii) early childhood education;[; or]~~
- ~~(xiv) early childhood intervention;[;]~~
- ~~(xv) human development and family sciences;~~
- ~~(xvi) public health; or~~
- ~~(xvii) child and family welfare;~~

~~(B) a bachelor's degree in a discipline other than those listed under subparagraph (A) of this paragraph from an accredited college or university with at least one year of documented experience as an intern or employee in a program that provides mental health or substance use services;~~

~~(C) [(2)] a license as [The staff member is] a registered nurse; or[.]~~

~~(D) [(3)] a license as [The staff member is] a Licensed Practitioner of the Healing Arts (LPHA).~~

~~(b) CSSP [Community Services Specialist (CSSP)]. A CSSP must, [staff member who,] as of August 31, 2004, have met the criteria set forth in 26 TAC §301.303 [~~25 TAC §412.303~~] (relating to Definitions).~~

~~(c) Peer Provider. A peer provider must have the following [The] minimum requirements [to credential a staff member as a peer provider are that the staff member has]:~~

- ~~(1) a high school diploma or high school equivalency certificate issued in accordance with the law of the issuing state;~~
- ~~(2) at least one cumulative year of receiving mental health services; and~~
- ~~(3) demonstrated competency in the provision and documentation of mental health rehabilitative services, supported employment, or supported housing.~~

~~(d) CFP [Certified Family Partners (CFPs)]. A CFP must have the following [The] minimum requirements [to credential a staff member as a CFP include verifying that the staff member]:~~

- ~~(1) be [is] 18 years of age or older;~~
- ~~(2) have [has] a high school diploma or high school equivalency certificate issued in accordance with the law of the issuing state;~~
- ~~(3) have [has] at least one year of personal experience as a parent or LAR raising a child or youth with serious emotional disturbance or mental illness;~~
- ~~(4) have [has] at least one year of personal experience as a parent or LAR navigating a child-service system (e.g., mental health, juvenile justice, social security, or special education); and~~
- ~~(5) have [has] successfully completed and passed the HHSC-approved certification process.~~

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

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

TRD-202500223

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Earliest possible date of adoption: March 9, 2025

For further information, please call: (512) 438-2910



## TITLE 19. EDUCATION

### PART 1. TEXAS HIGHER EDUCATION COORDINATING BOARD

#### CHAPTER 1. AGENCY ADMINISTRATION

##### SUBCHAPTER S. HIGHER EDUCATION STRATEGIC PLANNING COMMITTEE

###### 19 TAC §§1.213 - 1.219

The Texas Higher Education Coordinating Board (Coordinating Board) proposes the repeal of Texas Administrative Code, Title 19, Part 1, Chapter 1, Subchapter S, §§1.213 - 1.219, concerning the Higher Education Strategic Planning Committee. Specifically, this repeal will eliminate the subchapter and the committee itself, which was set to be abolished no later than January 1, 2016, and which no longer meets.

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

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

David Troutman, Deputy Commissioner for Academic Affairs, has also determined that for each year of the first five years the sections are in effect, the public benefit anticipated as a result of administering the sections will be the elimination of rules establishing and relating to an advisory committee that was set to be abolished no later than January 1, 2016, and which no longer meets. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

###### Government Growth Impact Statement

- (1) the rules will not create or eliminate a government program;
- (2) implementation of the rules will not require the creation or elimination of employee positions;
- (3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;

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

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

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

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

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

Comments on the proposal may be submitted to David Troutman, Deputy Commissioner for Academic Affairs, P.O. Box 12788, Austin, Texas 78711-2788, or via email at RulesComments@highered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

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

The proposed repeal affects Texas Administrative Code, Title 19, Part 1, Chapter 1, Subchapter S.

§1.213. *Authority and Purpose of the Higher Education Strategic Planning Committee.*

§1.214. *Definitions.*

§1.215. *Committee Membership and Officers.*

§1.216. *Duration.*

§1.217. *Meetings.*

§1.218. *Tasks Assigned to the Committee.*

§1.219. *Report to the Board; Evaluation of Committee Costs and Effectiveness.*

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

Filed with the Office of the Secretary of State on January 23, 2025.

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Nichole Bunker-Henderson

General Counsel

Texas Higher Education Coordinating Board

Earliest possible date of adoption: March 9, 2025

For further information, please call: (512) 427-6520



### SUBCHAPTER U. MARKETABLE SKILLS TASK FORCE

###### 19 TAC §§1.230 - 1.236

The Texas Higher Education Coordinating Board (Coordinating Board) proposes the repeal of Texas Administrative Code, Title 19, Part 1, Chapter 1, Subchapter U, §§1.230 - 1.236, concerning the Marketable Skills Task Force. Specifically, this repeal will eliminate the subchapter and the committee itself, which was set to be abolished no later than August 30, 2023, and which no longer meets.

David Troutman, Deputy Commissioner for Academic Affairs, has determined that for each of the first five years the sections

are in effect there would be no fiscal implications for state or local governments as a result of enforcing or administering the rules. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rules. There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rules.

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

David Troutman, Deputy Commissioner for Academic Affairs, has also determined that for each year of the first five years the sections are in effect, the public benefit anticipated as a result of administering the sections will be the elimination of rules establishing and relating to an advisory committee that was set to be abolished no later than August 30, 2023, and which no longer meets. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

#### Government Growth Impact Statement

- (1) the rules will not create or eliminate a government program;
- (2) implementation of the rules will not require the creation or elimination of employee positions;
- (3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;
- (4) the rules will not require an increase or decrease in fees paid to the agency;
- (5) the rules will not create a new rule;
- (6) the rules will not limit an existing rule;
- (7) the rules will not change the number of individuals subject to the rule; and
- (8) the rules will not affect this state's economy.

Comments on the proposal may be submitted to David Troutman, Deputy Commissioner for Academic Affairs, P.O. Box 12788, Austin, Texas 78711-2788, or via email at [RulesComments@highered.texas.gov](mailto:RulesComments@highered.texas.gov). Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

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

The proposed repeal affects Texas Administrative Code, Title 19, Part 1, Chapter 1, Subchapter U.

§1.230. *Authority and Specific Purposes of the Marketable Skills Task Force.*

§1.231. *Definitions.*

§1.232. *Committee Membership and Officers.*

§1.233. *Duration.*

§1.234. *Meetings.*

§1.235. *Tasks Assigned to the Task Force.*

§1.236. *Report to the Board; Evaluation of Committee Costs and Effectiveness.*

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

Filed with the Office of the Secretary of State on January 23, 2025.

TRD-202500210

Nichole Bunker-Henderson

General Counsel

Texas Higher Education Coordinating Board

Earliest possible date of adoption: March 9, 2025

For further information, please call: (512) 427-6520

## CHAPTER 2. ACADEMIC AND WORKFORCE EDUCATION

### SUBCHAPTER J. APPROVAL OF DISTANCE EDUCATION FOR PUBLIC INSTITUTIONS

#### 19 TAC §2.207

The Texas Higher Education Coordinating Board (Coordinating Board) proposes amendments to Texas Administrative Code, Title 19, Part 1, Chapter 2, Subchapter J, §2.207, concerning Effective Date of Rules. Specifically, this amendment will clarify institutional submission deadlines for renewing their Institutional Plan for Distance Education (IPDE).

Section 2.207, Effective Date of Rules, is amended to clarify the submission deadline for the first renewal submission following the effective date of the amended rules to be within one year of the institution's reaffirmation cycle. Currently §2.207 states, "IPDEs currently on file as of December 1, 2023, will remain filed in good standing until the first due date under §2.205(d)(1)," leaving two potential deadline options. To stagger submission dates, the renewal submission deadline following the effective date of the amended rule would only be no later than one year after receiving final disposition of the institution's comprehensive renewal of accreditation report from their institutional accreditor, as required by 34 CFR §602.19. This amendment would allow the Coordinating Board and institutions to manage distance education approval workflows appropriately.

Dr. Michelle Singh, Assistant Commissioner, Digital Learning, has determined that for each of the first five years the sections are in effect there would be no fiscal implications for state or local governments as a result of enforcing or administering the rules. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rule. There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rule.

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

Dr. Michelle Singh, Assistant Commissioner, Digital Learning, has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of adopting this rule is reducing regulatory burden on public institutions of higher education while allowing the Coordinating Board to conduct appropriate scrutiny and approval of distance education, in fulfillment of the agency's obligation in Texas Education Code, §61.0512(g). There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

Government Growth Impact Statement

- (1) the rules will not create or eliminate a government program;
- (2) implementation of the rules will not require the creation or elimination of employee positions;
- (3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;
- (4) the rules will not require an increase or decrease in fees paid to the agency;
- (5) the rules will not create a new rule;
- (6) the rules will not limit an existing rule;
- (7) the rules will not change the number of individuals subject to the rule; and
- (8) the rules will not affect this state's economy.

Comments on the proposal may be submitted to Dr. Michelle Singh, Assistant Commissioner, Digital Learning, P.O. Box 12788, Austin, Texas 78711-2788, or via email at [digitalllearning@highered.texas.gov](mailto:digitalllearning@highered.texas.gov). Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The amendment is proposed under Texas Education Code, Section 61.0512, which requires that institutions must seek prior Coordinating Board approval before offering distance learning courses.

The amendment affects Texas Administrative Code, Title 19, Part 1, Chapter 2, Subchapter J, Section 2.207.

*§2.207. Effective Date of Rules.*

The effective date of this subchapter is December 1, 2023. Each institution must submit an Institutional Plan for Distance Education ("IPDE") in accordance with this subchapter on or after that date by the due dates set out in §2.205(d)(1) of this subchapter (relating to Institutional Plan for Distance Education). IPDEs currently on file as of December 1, 2023, will remain filed in good standing until the [first] due date under §2.205(d)(1)(B)(i) of this subchapter [§2.205(d)(1)]. Learning Technology Advisory Committee shall cease conducting reviews and make recommendations regarding distance education doctoral program proposals under [19 TAC] §1.190(3) of this title (relating to Learning Technology Advisory Committee) upon final adoption of this subchapter. An institution is not required to submit a request for review under [19 TAC] §1.190(3) of this subchapter upon final adoption of this subchapter.

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

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Nichole Bunker-Henderson  
General Counsel

Texas Higher Education Coordinating Board  
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For further information, please call: (512) 427-6284



CHAPTER 10. GRANT PROGRAMS  
SUBCHAPTER A. GENERAL PROVISIONS

**19 TAC §§10.1 - 10.8**

The Texas Higher Education Coordinating Board (Coordinating Board) proposes new rules in Texas Administrative Code, Title 19, Part 1, Chapter 10, Subchapter A, §§10.1 - 10.8, concerning general provisions for Coordinating Board administered grant programs. Specifically, this new subchapter will set forth definitions and requirements for all Coordinating Board grant programs and establish minimum requirements for all grantees receiving grant funds from the Coordinating Board. The proposed subchapter will allow the Coordinating Board to enforce uniform and fair standards, definitions, and criteria across all grant programs administered by the agency in accordance with the Texas Grant Management Standards.

Sections 61.035 and 61.051(a)(5) of the Texas Education Code provides the Coordinating Board with authority to administer and monitor Coordinating Board grant funds. To effectively and efficiently administer and monitor Coordinating Board grant programs, the Coordinating Board proposes new rules as follows.

Section 10.1, Purpose and Authority, provides the purpose and authority for the general provisions applicable to Coordinating Board administered grant programs. This section sets forth that this purpose allows for the administration of programs and funds while ensuring necessary compliance monitoring.

Section 10.2, Definitions, establishes standard definitions that may be used across all Coordinating Board grant programs to better aid in Coordinating Board consistency in the administration of grant programs. These standard definitions promote efficient operation of Coordinating Board administered programs.

Section 10.3, Competitive Grant Process, sets forth the minimum requirements for the Coordinating Board to administer a competitive grant program. The minimum standards are designed to comply with the Texas Grant Management Standards and allow for Coordinating Board monitoring of grant programs.

Section 10.4, Non-competitive Grant Process, sets forth the minimum requirements for the Coordinating Board to administer a non-competitive grant program. The minimum standards are designed to comply with the Texas Grant Management Standards and allow for Coordinating Board monitoring of grant programs.

Section 10.5, Grant Awards, sets forth the minimum requirements for the Coordinating Board to issue a grant award as well as the minimum requirements a grantee must meet to receive and retain a grant award. This section is proposed in accordance with §61.035 of the Texas Education Code to ensure funds are distributed in accordance with applicable law and Coordinating Board rules

Section 10.6, Reporting, sets forth minimum grantee reporting requirements to enable the Coordinating Board to appropriately monitor grantee's use and progress with the grant award. This section is proposed in accordance with §61.035 of the Texas Education Code to ensure funds are expended in accordance with applicable state laws and Coordinating Board rules.

Section 10.7, Compliance, sets forth the minimum compliance requirements a grantee is subject to by receiving a Coordinating Board grant award. These minimum compliance requirements are developed in accordance with the Texas Grant Management Standards and §61.035 of the Texas Education Code.

Section 10.8, Additional Requirements, requires the Coordinating Board to provide grantee written notice in the event grantee makes unauthorized or prohibited expenditures of

Coordinating Board grant awards. These requirements ensure that grant funds are used in accordance with applicable laws and Coordinating Board rules as well as to ensure programs are administered to reach the state's goals.

Section 10.8 further provides the grantee with an opportunity to contest such notice and requires the grantee to reimburse the Coordinating Board for unauthorized or prohibited expenditures. This rule allows the Grantee an opportunity to be heard and for the Coordinating Board to review. It also helps to ensure that the Coordinating Board is able to administer grant funds in accordance with applicable law and Coordinating Board rules.

Douglas Brock, Assistant General Counsel, has determined that for each of the first five years the sections are in effect there would be no fiscal implications for state or local governments as a result of enforcing or administering the rules. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rule. There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rule.

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

Douglas Brock, Assistant General Counsel, has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the section is the Coordinating Board's ability to administer grant programs that are not otherwise regulated under Coordinating Board rules allowing for increased efficiency, consistency and transparency in awarding and monitoring grant awards. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

#### Government Growth Impact Statement

- (1) the rules will not create or eliminate a government program;
- (2) implementation of the rules will not require the creation or elimination of employee positions;
- (3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;
- (4) the rules will not require an increase or decrease in fees paid to the agency;
- (5) the rules will not create a new rule;
- (6) the rules will not limit an existing rule;
- (7) the rules will not change the number of individuals subject to the rule; and
- (8) the rules will not affect this state's economy.

Comments on the proposal may be submitted to Douglas Brock, Assistant General Counsel, P.O. Box 12788, Austin, Texas 78711-2788, or via email at [rulescomments@highered.texas.gov](mailto:rulescomments@highered.texas.gov). Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The new sections are proposed under Texas Education Code, Sections 61.035 and 61.051(a)(5), which provide the Coordinating Board with the authority to administer and monitor the distribution of grant funds.

The proposed new sections affect Texas Administrative Code, Title 19, Part 1, Chapter 10, Grant Programs.

#### §10.1. Purpose and Authority.

(a) Purpose. This subchapter establishes general procedures to administer grants not otherwise administered in Part 1 of Title 19.

(b) Authority. The authority for this subchapter is found in Texas Education Code, §§61.035 and 61.051(a)(5), which provide the Coordinating Board with the authority to administer and monitor distribution of grant funds.

#### §10.2. Definitions.

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

(1) Announcement--A public announcement of a Coordinating Board-administered grant opportunity.

(2) Application--The document(s) submitted in response to a RFA or other notice of a grant funding opportunity which include but are not limited to a budget and project description.

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

(4) Commissioner--The Texas Commissioner of Higher Education.

(5) Competitive Grants--A type of grant program where grant funds are awarded to the most qualified eligible applicants based on the criteria set forth in the RFA.

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

(7) Grant Agreement--A legal instrument of financial assistance between the Coordinating Board and a grantee to transfer grant funds in accordance with state law, federal law, and the General Appropriations Act, as applicable, and to set forth the terms and conditions of the grant award.

(8) Non-competitive Grants--A type of grant program where grant funds are awarded by the Coordinating Board to an eligible applicant pursuant to a formula, allotment, or other directive of the General Appropriations Act or state law.

(9) Notice of Grant Award (NOGA)--An official legal document used in conjunction with a RFA that notifies an entity of a grant award, provides the terms of the award, and is legally binding upon full execution.

(10) Request for Applications (RFA)--A type of solicitation notice in which the Coordinating Board announces available competitive grant funding, sets forth the eligibility and terms and conditions governing the grant program, provides evaluation criteria for submitted applications, and provides instructions for an eligible entity to submit an application for such competitive funding.

#### §10.3. Competitive Grant Process.

(a) The Coordinating Board shall publish an RFA for competitive grant programs.

(b) The RFA shall set forth the eligibility criteria for the grant program.

(c) The Coordinating Board shall review submitted applications for completeness and eligibility.

(d) The Coordinating Board shall objectively evaluate complete and eligible applications based on the evaluation criteria set forth in the RFA. The Coordinating Board may use external evaluators for evaluation purposes.

(e) The Coordinating Board will base a grant award on the criteria set forth in the RFA.



(f) Prior to the full execution of a NOGA, the Commissioner may adjust the size of an award to a grantee to best fulfill the purpose of the grant program and RFA.

(g) Before the Board releases funds, the grantee and the Coordinating Board must fully execute a NOGA.

§10.4. Non-competitive Grant Process.

(a) The Coordinating Board shall publish an announcement for a non-competitive grant program that provides information on eligibility requirements and application requirements in accordance with state law or federal law and the General Appropriations Act, as applicable.

(b) The Coordinating Board shall review each submitted application for completeness and eligibility.

(c) The Coordinating Board will base each grant award on the allocation methodology set forth in the announcement.

(d) The Commissioner may adjust the allocation methodology or grant award amount to best fulfill the purpose of the grant program and as authorized by state law or federal law and the General Appropriations Act.

(e) Before the Coordinating Board releases funds, the grantee and the Coordinating Board must fully execute a grant agreement.

§10.5. Grant Awards.

(a) The amount of funding available for a grant program is dependent on legislative appropriation for the program for each biennial state budget.

(b) Each grant award shall be subject to Coordinating Board approval pursuant to §1.16 of this title (relating to Contracts, Including Grants, for Materials and/or Services).

(c) A grantee may only use grant funds on the reasonable and necessary costs of the grant program as specified in the RFA or grant agreement.

(d) A grantee must comply with all applicable state and federal statutes, regulations, and standards pertaining to the grant program, including but not limited to the Uniform Grant Guidance and the Texas Grant Management Standards.

(e) The Coordinating Board may advance a grant award or provide advancement in periodic installments to a grantee if necessary for the success of the funded project, subject to grantee's prior compliance with past Coordinating Board monitoring requirements, compliance with state and federal laws pertaining to grant awards and financial monitoring, and the terms and conditions of prior Coordinating Board-administered grant programs.

(f) Grantee shall return all unobligated grant funds to the Coordinating Board no later than thirty (30) days from the grant termination date.

§10.6. Reporting.

(a) Grantee must file program and expenditure reports to the Coordinating Board in the format required by the Coordinating Board by the deadlines set forth in the RFA, grant agreement, or NOGA as applicable.

(b) The Commissioner may withhold or reduce a grant award for failure to meet reporting requirements.

§10.7. Compliance.

(a) The Coordinating Board may conduct compliance monitoring or audits of a grantee as a condition of accepting a grant award.

(b) To avoid duplication of effort and assist the Coordinating Board in identifying risk, a Grantee's internal auditor shall notify the

Coordinating Board of any audits conducted by the grantee's internal or external auditor involving grant funds allocated or administered by the Coordinating Board or reports submitted to the Coordinating Board pursuant to §10.6 of this subchapter (relating to Reporting).

(c) The Coordinating Board may impose additional monitoring requirements on a grantee's use of grant funds as a result of audit, compliance monitoring or other discovery of reporting deficiencies.

(d) The Coordinating Board may impose a reimbursement payment schedule on a grantee's use of grant funds as a result of audit, compliance monitoring, or other discovery of reporting deficiencies.

§10.8. Additional Requirements.

(a) Unless otherwise prohibited by state law, the Commissioner has the right to reject all applications and cancel a grant solicitation.

(b) If the Coordinating Board determines that a data reporting error or any other error resulted in an overallocation of grant funds to the grantee, the Coordinating Board shall use any method authorized under statute or Board rules to make a funding adjustment necessary to correct the over-allocation.

(c) If the Coordinating Board determines that a grantee obligated or expended grants funds on costs prohibited or unauthorized by law, regulations or the terms and conditions of the grant award, the Coordinating Board shall notify the grantee not later than sixty (60) business days from the grant termination date. This notification must contain the amount of the prohibited obligation or expenditure and the basis for the determination.

(d) The grantee may submit a written appeal to the Commissioner within thirty (30) business days of receiving notification of the prohibited or unauthorized expenditures. The grantee may attach any data or other written documentation that supports its appeal. The Commissioner shall review the appeal and determine in his or her sole discretion whether to affirm, deny, or modify the determination of prohibited or unauthorized obligation or expenditure within thirty (30) business days of receipt.

(e) If the grantee does not appeal or the Commissioner affirms the determination that prohibited or unauthorized grant obligations or expenditures occurred, the grantee shall reimburse the Coordinating Board in an amount equal to the prohibited or unauthorized obligation or expenditure.

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

Filed with the Office of the Secretary of State on January 23, 2025.

TRD-202500211

Nichole Bunker-Henderson

General Counsel

Texas Higher Education Coordinating Board

Earliest possible date of adoption: March 9, 2025

For further information, please call: (512) 427-6375



CHAPTER 13. FINANCIAL PLANNING  
SUBCHAPTER P. COMMUNITY COLLEGE  
FINANCE PROGRAM FOR FISCAL YEAR 2024  
19 TAC §§13.470 - 13.477

The Texas Higher Education Coordinating Board (Coordinating Board) proposes the repeal of Texas Administrative Code, Title 19, Part 1, Chapter 13, Subchapter P, §§13.470 - 13.477, concerning the Community College Finance Program for Fiscal Year 2024. Specifically, this repeal will remove sections superseded by rules adopted by the Coordinating Board in April 2024 which are now in Chapter 13, Subchapter S, of this title.

The Coordinating Board initially adopted rules relating to the new community college finance system on an emergency basis in August 2023, including Subchapter P in Chapter 13, allowing for the implementation of H.B. 8 by the start of the 2024 fiscal year. Chapter 13, Subchapter S, which became effective on September 1, 2024, is the primary community college finance subchapter beginning in fiscal year 2025.

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

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

Andy MacLaurin, Assistant Commissioner of Funding and Resource Planning, has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be the removal of rules from the Texas Administrative Code that are superseded by rules approved by the Coordinating Board in April 2024 (Chapter 13, Subchapter S). There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

#### Government Growth Impact Statement

- (1) the rules will not create or eliminate a government program;
- (2) implementation of the rules will not require the creation or elimination of employee positions;
- (3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;
- (4) the rules will not require an increase or decrease in fees paid to the agency;
- (5) the rules will not create a new rule;
- (6) the rules will not limit an existing rule;
- (7) the rules will not change the number of individuals subject to the rule; and
- (8) the rules will not affect this state's economy.

Comments on the proposal may be submitted to Andy MacLaurin, Assistant Commissioner of Funding and Resource Planning, P.O. Box 12788, Austin, Texas 78711-2788, or via email at [CCFinance@highered.texas.gov](mailto:CCFinance@highered.texas.gov). Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The repeal is proposed under Texas Education Code, Section 130A.005, which provides the Coordinating Board with the authority to adopt rules and take other actions consistent with Texas

Education Code, Chapter 61, Chapter 130, and Chapter 130A to implement Tex. H.B. 8, 88th Leg., R.S. (2023). In addition, Texas Education Code, Section 130.355, permits the Coordinating Board to establish rules for funding workforce continuing education.

The proposed repeal affects Texas Education Code, Sections 28.0295, 61.003, 61.059, 130.003, 130.0031, 130.0034, 130.008, 130.085, 130.310, 130.352 and Chapter 130A.

§13.470. *Purpose and Effective Date.*

§13.471. *Authority.*

§13.472. *Definitions.*

§13.473. *Base Tier Allotment.*

§13.474. *Performance Tier Funding.*

§13.475. *Formula Transition Funding.*

§13.476. *Payment Schedule.*

§13.477. *Close Out.*

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

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Nichole Bunker-Henderson

General Counsel

Texas Higher Education Coordinating Board

Earliest possible date of adoption: March 9, 2025

For further information, please call: (512) 427-6495



## SUBCHAPTER S. COMMUNITY COLLEGE FINANCE PROGRAM: BASE AND PERFORMANCE TIER METHODOLOGY

### 19 TAC §13.556, §13.557

The Texas Higher Education Coordinating Board (Coordinating Board) proposes amendments to Texas Administrative Code, Title 19, Part 1, Chapter 13, Subchapter S, §13.556 and §13.557, concerning Performance Tier Fundable Outcomes. Specifically, the amendments to §13.556 will accomplish two objectives: maintaining the contact hour and semester credit hour guardrails currently enforced on the Institutional Credential Leading to Licensure or Certification (ICLC) and Third-Party Credential performance outcomes, and ensuring that a student cannot earn both the transfer outcome and co-enrollment outcome. The amendments to §13.557 will add Opportunity High School Diploma to the applicable weights for performance tier fundable outcomes.

Rule 13.556(b)(1)(C) is amended to maintain the contact hour and semester credit hour (SCH) threshold for ICLC and Third-Party Credential outcomes. This section also describes the manner by which the Coordinating Board determines whether a credential qualifies as a credential of value and is thereby fundable. ICLCs and Third-Party Credentials are credentials of value when they require a minimum amount of instruction to meet other

programmatic requirements. Currently, the Coordinating Board does not have the data capability to utilize the standard credential of value methodology for these three types of credentials and therefore will need to keep the threshold in place until the data becomes available.

Rule 13.556(e)(1)(C) is amended to ensure that a student who completes the transfer outcome cannot also complete a structured co-enrollment outcome. An institution earns a transfer fundable outcome for students who complete 15 SCH from a single public junior college and enrolls in a general academic teaching institution. Structured co-enrollment is an outcome distinct from transfer because the sequence of enrollment precludes students in these programs from qualifying as transfer students under the transfer methodology, and it would be an inappropriate unintended consequence for a single student's path from a community college to a general academic teaching institution to count as both outcomes.

Rule 13.557(d)(3)(A) is amended to add Opportunity High School Diploma to the outcomes eligible for additional funding weight when the student is economically disadvantaged, academically disadvantaged, or an adult learner. Rule 13.557(e) is amended to make those weights applicable when the necessary student-level data becomes available, which is planned for outcomes completed in FY 2026. Starting in that year, an institution will be able to earn additional funding weights when a qualifying student achieves the Opportunity High School Diploma fundable outcome, as they already can for other outcome types.

Andy MacLaurin, Assistant Commissioner of Funding and Resource Planning, has determined that for each of the first five years the sections are in effect there may be fiscal implications for state or local governments as a result of enforcing or administering the rules, as required to continue the administration of the public junior college finance system established by H.B. 8, 88th Leg., R.S. (2023). Such ancillary fiscal implications may include the need to collect and report additional data in order to obtain additional outcome-based funding.

The increased funding to institutions of higher education has been codified as part of the new public junior college finance system in statute. Participation in the program is voluntary. The rules do not impose additional costs of compliance beyond those provided for in statute. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rule. There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rule.

Adding the Opportunity High School Diploma to the list of credentials eligible for student-level weights and maintaining quality standards for ICLC and Third-Party Credential Outcomes may have a positive impact on small businesses, micro businesses, rural communities, and local employment, as local employers seeking to hire may be more likely to find appropriately skilled job seekers who can fill job openings with less need for additional training.

Andy MacLaurin, Assistant Commissioner of Funding and Resource Planning, has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be the continued refinement of implementing H.B. 8, which established a modern and dynamic finance system that ensures each public junior college has access to adequate state appropriations and local resources to support the education and training of the

workforce. Refinement of this system may strengthen local economies by producing additional skilled employees who can fill job openings with less need for additional training. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

#### Government Growth Impact Statement

- (1) the rules will not create or eliminate a government program;
- (2) implementation of the rules will not require the creation or elimination of employee positions;
- (3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;
- (4) the rules will not require an increase or decrease in fees paid to the agency;
- (5) the rules will not create a new rule;
- (6) the rules will not limit an existing rule;
- (7) the rules will not change the number of individuals subject to the rule; and
- (8) the rules may have a positive effect on the state's economy.

Comments on the proposal may be submitted to Andy MacLaurin, Assistant Commissioner of Funding and Resource Planning, P.O. Box 12788, Austin, Texas 78711-2788, or via email at [CCFinance@highered.texas.gov](mailto:CCFinance@highered.texas.gov). Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The amendment is proposed under Texas Education Code, Section 130A.005, which provides the Coordinating Board with the authority to adopt rules and take other actions consistent with Texas Education Code, Chapter 61, Chapter 130, and Chapter 130A, to implement Tex. H.B. 8, 88th Leg., R.S. (2023). In addition, Texas Education Code, Section 130.355, permits the Coordinating Board to establish rules for funding workforce continuing education.

The proposed amendment affects Texas Education Code, Sections 28.0295, 61.003, 61.059, 130.003, 130.0031, 130.0034, 130.008, 130.085, 130.310, 130.352, and Chapter 130A.

#### §13.556. *Performance Tier: Fundable Outcomes.*

(a) This section contains definitions of Fundable Outcomes eligible for receiving funding through the Performance Tier. An institution's Performance Tier funding will consist of the count of Fundable Outcomes, multiplied by weights identified in §13.557 of this subchapter (relating to Performance Tier: Fundable Outcome Weights) as applicable, multiplied by the monetary rates identified in this subchapter. Fundable Outcomes consist of the following categories:

- (1) Fundable Credentials;
  - (2) Credential of Value Premium;
  - (3) Dual Credit Fundable Outcomes;
  - (4) Transfer Fundable Outcomes;
  - (5) Structured Co-Enrollment Fundable Outcomes; and
  - (6) Opportunity High School Diploma Fundable Outcomes.
- (b) Fundable Credentials.

- (1) A fundable credential is defined as any of the following:

(A) Any of the following credentials awarded by an institution that meets the criteria of a credential of value as defined in

paragraph (2) of this subsection using the data for the year in which the credential is reported that is otherwise eligible for funding, and the institution reported and certified to the Coordinating Board:

- (i) An associate degree;
- (ii) A baccalaureate degree;
- (iii) A Level 1 or Level 2 Certificate;
- (iv) An Advanced Technical Certificate; and
- (v) A Continuing Education Certificate.

(B) An Occupational Skills Award awarded by an institution that the institution reported and certified to the Coordinating Board;

(C) An Institutional Credential Leading to Licensure or Certification (ICLC) not reported pursuant to subparagraph (B) of this paragraph and that the institution reported and certified to the Coordinating Board. ~~The [For fiscal year 2025 or prior only, the]~~ credential shall meet one of the following criteria:

- (i) The credential includes no fewer than 144 contact hours or nine (9) semester credit hours; or
- (ii) The credential is awarded in a high demand field, as defined in Coordinating Board rule, and includes no fewer than 80 contact hours or five (5) semester credit hours; or

(D) A Third-Party Credential that meets the following requirements:

- (i) The third-party credential is listed in the American Council on Education's ACE National Guide with recommended semester credit hours;
- (ii) The third-party credential program content is either embedded in a course, embedded in a program, or is a stand-alone program;
- (iii) The third-party credential is conferred for successful completion of the third-party instructional program in which a student is enrolled;
- (iv) The third-party credential is included on the workforce education, continuing education, or academic transcript from the college; and

(I) ~~The [For fiscal year 2025 only, the]~~ third-party credential includes no fewer than the equivalent of nine (9) semester credit hours or 144 contact hours; or

(II) ~~The [For fiscal year 2025 only, the]~~ third-party credential is awarded in a high-demand field as defined in Coordinating Board rule, and includes no fewer than the equivalent of five (5) semester credit hours or 80 contact hours; and

(v) The student earned the third-party credential on or after September 1, 2024.

(2) Credential of Value Baseline. For fiscal year 2025 or prior only, a credential identified in paragraph (1)(A) of this subsection must meet the Credential of Value Baseline criteria for eligibility as a Fundable Outcome. Beginning in fiscal year 2026, any credential identified in paragraph (1) of this subsection must meet the Credential of Value Baseline criteria for eligibility as a Fundable Outcome. This baseline is met when a credential earned by a student would be expected to provide a positive return on investment within a period of ten years.

(A) A program demonstrates a positive return on investment when the majority of students statewide completing the credential, within a program area, are expected to accrue earnings greater than

the cumulative median earnings of Texas high school graduates who do not hold additional credentials, plus recouping the net cost of attendance within ten years after earning the credential.

(B) This calculation of return on investment shall include students' opportunity cost, calculated as the difference between median earnings for Texas high school graduates and estimated median earnings for students while enrolled:

- (i) Four years for baccalaureate degree holders;
- (ii) Two years for associate degree holders; or
- (iii) One year for holders of a Level 1 certificate, Level 2 certificate, Advanced Technical Certificate, or Continuing Education Certificate.

(C) The Coordinating Board shall calculate the expected return on investment for each program based on the most current data available to the agency for the funding year for each program or a comparable program.

(D) In applying the methodology under this section to a program offering a credential in an emerging or essential high-demand field pursuant to §13.595(a) and (b) of this chapter (relating to Emerging and Essential Fields), the Commissioner of Higher Education shall utilize recent, relevant data, including:

- (i) employer certifications provided under §13.595(b);
- (ii) information on program design, including at minimum the cost and length of the program; and
- (iii) any other information necessary for the Coordinating Board to apply the methodology under this section to the program proposed in an emerging or essential high-demand field.

(3) The following limitations apply to a fundable credential:

(A) For a credential under paragraph (1)(B) or (C) of this subsection, if more than one credential that the institution awarded to a student includes the same contact hours, the institution may only submit one credential for funding;

(B) If an institution awarded to a student a credential eligible for funding under paragraph (1)(B) and (C) of this subsection and those credentials share the same contact hours, the institution shall submit for funding only the credential awarded under paragraph (1)(B) of this subsection; and

(C) For a degree or certificate awarded on or after September 1, 2024, a fundable credential excludes a degree or certificate awarded to a non-resident student enrolled in a 100-percent online degree or certificate program as defined in §2.202(4)(A) of this title (relating to Definitions) for a student who resides out-of-state.

(c) Credential of Value Premium. An institution earns a Credential of Value Premium for each student who completes a Fundable Credential under subsection (b)(1)(A) of this section as follows:

(1) The student completes the credential of value on or before the target year for completion that, for the majority of students who complete comparable programs, would enable the student to achieve a positive return on investment within the timeframe specified for the program as described in paragraph (2) of this subsection.

(2) For each program, the Coordinating Board shall calculate the year in which the majority of comparable programs would be projected to have the majority of their students achieve a positive return on investment.

(3) Each year, the Coordinating Board shall publish a list of the target years for completion for each program.

(d) Dual Credit Fundable Outcome. An institution achieves a Dual Credit Fundable Outcome when a student has earned a minimum number of eligible dual credit semester credit hours, as defined in §13.553(14) of this subchapter (relating to Definitions).

(e) Transfer Fundable Outcome.

(1) An institution earns a transfer fundable outcome when a student enrolls in a general academic teaching institution (GAI), as defined in Texas Education Code, §61.003(3), after earning at least 15 semester credit hours (SCH) from a single public junior college district, subject to the following:

(A) The student is enrolled at the GAI for the first time in the fiscal year for which the public junior college is eligible for a performance tier allocation, as established in this subchapter;

(B) No institution, including the institution that may be awarded a transfer fundable outcome, has achieved a structured co-enrollment fundable outcome or would otherwise achieve a structured co-enrollment fundable outcome in the same year on the basis of the student's participation in a structured co-enrollment program under subsection (f) of this section;

~~(C)~~ The student earned a minimum of 15 SCHs from the public junior community college district seeking the transfer fundable outcome during the period including the fiscal year in which they enroll at the GAI and the four fiscal years prior; and

~~(D)~~ The attainment of the 15 SCHs satisfies the following restrictions:

(i) The transfer fundable outcome shall exclude the 15 SCHs that previously counted toward attainment of a dual credit fundable outcome for the student under subsection (d) of this section.

(ii) The transfer fundable outcome may include any SCHs earned by the student not previously counted toward a dual credit fundable outcome under subsection (d) of this section.

(2) Only one institution may earn a transfer fundable outcome for any individual student, except as provided by subparagraph (C) of this paragraph. An institution may earn the transfer fundable outcome only once per student. The Coordinating Board shall award the transfer fundable outcome in accordance with this subsection.

(A) If a student has earned 15 SCH at more than one institution prior to transfer to any GAI, the Coordinating Board shall award the transfer fundable outcome to the last public junior college at which the student earned the 15 SCH eligible for funding under this section.

(B) If the student earned the 15 SCH at more than one institution during the same academic term, the Coordinating Board shall award the transfer fundable outcome to the public junior college:

(i) from which the student earned the greater number of the SCH that count toward the transfer fundable outcome during the academic term in which they earned the 15 SCH; or

(ii) if the student earned an equal number of SCH that count toward the transfer fundable outcome in the academic term in which the student earned the 15 SCH, to the institution from which the student earned a greater number of SCH that count toward the transfer fundable outcome in total.

(C) If a student has met the SCH requirements of subparagraph (B)(i) and (ii) of this paragraph at more than one public ju-

nior college, each public junior college may receive a transfer fundable outcome.

(f) Structured Co-Enrollment Fundable Outcome. An institution achieves a Structured Co-Enrollment Fundable Outcome when a student has earned a minimum number of eligible semester credit hours in a structured co-enrollment program, as defined in §13.553(30) of this subchapter, and no institution, including the institution that may be awarded a structured co-enrollment fundable outcome, has achieved the transfer fundable outcome on the basis of the student's enrollment in a GAI under subsection (e) of this section.

(g) Opportunity High School Diploma Fundable Outcome. An institution achieves an Opportunity High School Diploma Fundable Outcome when a student has completed the program and attained the credential, as defined in §13.553(28) of this subchapter. A student must earn the Opportunity High School Diploma on or after September 1, 2024 to qualify as a Fundable Outcome.

§13.557. *Performance Tier: Fundable Outcome Weights.*

(a) This section contains definitions of Fundable Outcome Weights that are applied to the Fundable Outcomes specified in §13.556 of this subchapter (relating to Performance Tier: Fundable Outcomes) to generate a Weighted Outcome Completion. A Fundable Outcome that does not qualify for one of the following Fundable Outcome Weight categories receives a weight of 1. The Coordinating Board will apply the following weights to Fundable Outcomes to the extent permitted by data availability. Fundable Outcome Weights consist of the following categories:

(1) Outcomes achieved by economically disadvantaged students;

(2) Outcomes achieved by academically disadvantaged students; and

(3) Outcomes achieved by adult learners.

(b) Economically Disadvantaged Students.

(1) An institution will receive an additional weight of 25% for fundable credentials, transfer fundable outcomes, ~~and~~ structured co-enrollment fundable outcomes, and Opportunity High School Diploma fundable outcomes, as referenced in §13.556 of this subchapter achieved by an economically disadvantaged student, as defined in §13.553(15) of this subchapter (relating to Definitions).

(2) For purposes of calculating economically disadvantaged for the Transfer Fundable Outcome, Opportunity High School Diploma Fundable Outcome, and Fundable Credentials, the student must be classified as economically disadvantaged at any point during the fiscal year in which the outcome was achieved or the four fiscal years prior at the institution in which the outcome was achieved.

(3) For purposes of calculating economically disadvantaged for Structured Co-Enrollment Fundable Outcome, the student must be classified as economically disadvantaged in the initial semester of enrollment in the Structured Co-Enrollment Program at either the community college or general academic institution.

(c) Academically Disadvantaged Students.

(1) An institution will receive an additional weight of 25% for any fundable credentials, transfer fundable outcomes, ~~and~~ structured co-enrollment fundable outcomes, and Opportunity High School Diploma fundable outcomes, as referenced in §13.556 of this subchapter achieved by an academically disadvantaged student, as defined in §13.553(1) of this subchapter.

(2) For purposes of calculating academically disadvantaged for Transfer Fundable Outcome, Opportunity High School

Diploma Fundable Outcome, and Fundable Credentials, the student must be classified as academically disadvantaged at any point during the fiscal year in which the outcome was achieved or the four fiscal years prior at the institution in which the outcome was achieved.

(3) For purposes of calculating academically disadvantaged for Structured Co-Enrollment Fundable Outcome, the student must be classified as academically disadvantaged in the initial semester of enrollment in the Structured Co-Enrollment Program at the institution in which the outcome was achieved.

(d) Adult Learners.

(1) An institution will receive an additional weight of 50% for a fundable credential, transfer fundable outcomes, [and] structured co-enrollment fundable outcomes, and Opportunity High School Diploma fundable outcomes, as referenced in §13.556 of this subchapter achieved by an adult learner, as defined in §13.553(2) of this subchapter.

(2) For purposes of calculating an Adult Learner for a transfer fundable outcome, the Coordinating Board shall calculate age in accordance with this subsection.

(A) The student shall be 25 years of age or older in the earliest fiscal year in which they were enrolled at the public junior college during the current fiscal year or the two fiscal years prior to first enrollment in a general academic institution; or

(B) If the student was not enrolled at the public junior college during the current fiscal year or the two fiscal years prior to the first enrollment in a general academic institution, the student must be 25 years of age or older in the earliest fiscal year of enrollment at the public junior college during the prior four fiscal years.

(3) For purposes of calculating an Adult Learner for a fundable credential, the student's eligibility will be determined as follows:

(A) For a student who completes an Occupational Skills Award, Institutional Credential leading to Licensure or Certification, Third Party Credential, Level I Certificate, Level II Certificate, Continuing Education Certificate, Opportunity High School Diploma, or Advanced Technical Certificate, as defined in §13.556(b) of this subchapter, 25 years of age or older on September 1 of the fiscal year in which the student earned the credential;

(B) For a student who completes an associate degree as defined in §13.556(b) of this subchapter, 25 years of age or older on September 1 of the earliest fiscal year in which the student was enrolled during the period including the year in which the student earned the credential and the prior fiscal year; and

(C) For a student who completes a bachelor's degree as defined in §13.556(b) of this subchapter, 25 years of age or older on September 1 of the earliest fiscal year in which the student was enrolled during the period including the year in which the student earned the credential and the three fiscal years prior.

(4) For purposes of calculating an Adult Learner for Structured Co-Enrollment Fundable Outcome, the student must be classified as an Adult Learner in the initial semester of enrollment in the Structured Co-Enrollment Program at the institution in which the outcome was achieved.

(e) Applicability of Weights. For purposes of transitioning to the new formula model, an institution will receive fundable outcome weights for Occupational Skills Awards, Institutional Credentials Leading to Licensure or Certification, and Third-Party Credentials achieved by economically disadvantaged students, academically disadvantaged students, or adult learners beginning with these awards

reported in Fiscal Year 2025. An institution will receive a fundable outcome weight for an Opportunity High School Diploma earned by an economically disadvantaged student, academically disadvantaged student, or an adult learner beginning with these awards reported in Fiscal Year 2026. [This subsection expires on August 31, 2026.]

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

Filed with the Office of the Secretary of State on January 23, 2025.

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Nichole Bunker-Henderson

General Counsel

Texas Higher Education Coordinating Board

Earliest possible date of adoption: March 9, 2025

For further information, please call: (512) 427-6495



## CHAPTER 21. STUDENT SERVICES

### SUBCHAPTER O. PROVISIONS REGARDING SCHOLARSHIPS TO RELATIVES OF BOARD MEMBERS OF INSTITUTIONS OF HIGHER EDUCATION AND UNIVERSITY SYSTEMS

#### 19 TAC §§21.468 - 21.474

The Texas Higher Education Coordinating Board (Coordinating Board) proposes the repeal of Texas Administrative Code, Title 19, Part 1, Chapter 21, Subchapter O, §§21.468 - 21.474, concerning Provisions Regarding Scholarships to Relatives of Board Members of Institutions of Higher Education and University Systems. Specifically, this repeal will allow the relocation of this subchapter to a more appropriate location in Coordinating Board rules. The Coordinating Board is authorized by Texas Education Code, §51.969, to adopt rules relating to the provisions of that section.

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

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

Dr. Charles Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be the improved rule navigability by relocating the rule to a more appropriate location. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

Government Growth Impact Statement

- (1) the rules will not create or eliminate a government program;
- (2) implementation of the rules will not require the creation or elimination of employee positions;
- (3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;
- (4) the rules will not require an increase or decrease in fees paid to the agency;
- (5) the rules will not create a new rule;
- (6) the rules will not limit an existing rule;
- (7) the rules will not change the number of individuals subject to the rule; and
- (8) the rules will not affect this state's economy.

Comments on the proposal may be submitted to Dr. Charles Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, P.O. Box 12788, Austin, Texas 78711-2788, or via email at SFAPPolicy@highered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The repeal is proposed under Texas Education Code, Section 51.969, which provides the Coordinating Board with the authority to adopt rules relating to the provisions of that section.

The proposed repeal affects Texas Administrative Code, Title 19, Part 1, Chapter 21.

§21.468. *Authority and Purpose.*

§21.469. *Definitions.*

§21.470. *Relevant Institutions.*

§21.471. *Prohibited Scholarships.*

§21.472. *Declaration of Eligibility.*

§21.473. *Criminal Penalty.*

§21.474. *Dissemination of Information and Rules.*

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

Filed with the Office of the Secretary of State on January 23, 2025.

TRD-202500213

Nichole Bunker-Henderson

General Counsel

Texas Higher Education Coordinating Board

Earliest possible date of adoption: March 9, 2025

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



## CHAPTER 22. STUDENT FINANCIAL AID PROGRAMS

### SUBCHAPTER B. [PROVISIONS FOR THE] TUITION EQUALIZATION GRANT PROGRAM

#### 19 TAC §§22.22 - 22.30

The Texas Higher Education Coordinating Board (Coordinating Board) proposes amendments to Texas Administrative Code, Title 19, Part 1, Chapter 22, Subchapter B, §§22.22 - 22.30, concerning the Tuition Equalization Grant Program. Specifically, this

amendment will align rule language and terminology with usage throughout Chapter 22, clarify potential ambiguities in rules, and improve the overall readability of the subchapter.

The Coordinating Board is authorized to adopt rules related to the Tuition Equalization Grant (TEG) Program by Texas Education Code (TEC), §61.229.

The subchapter is retitled to conform with naming conventions throughout Chapter 22.

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 "grant" as a noun and "offer" as a verb, to avoid potential confusion.

References to theological seminaries and religious degree programs have been removed in alignment with legal determinations stemming from recent federal court decisions.

Rule 22.22, Definitions, is amended to eliminate definitions that either are duplicative or unnecessary. The terms "forecast" and "private or independent institution of higher education" have been moved to the chapter's General Provisions and therefore are redundant in this subchapter. "Program maximum" is unchanged conceptually but moved to §22.28(a) to align with the rule structure and flow of other programs in this chapter.

Rule 22.23, Eligible Institutions, is amended to enhance readability through more specific citations to other rules and to clarify potential ambiguities. Paragraph (a)(5) is amended to clarify that the Commissioner of Higher Education makes determinations regarding temporary approvals for alternatively accredited institutions and that renewals of that approval may be renewed twice for two years each time, for maximum of six years of temporary approval possible. This does not reflect a change in Coordinating Board practices.

Rule 22.24, Eligible Students, is amended to align eligibility criteria more closely with defined terms and the rules of other programs in this chapter. Paragraph (a)(8) is added to align the rule with current practice regarding the Selective Service requirement for program eligibility. Paragraph (b)(2) is amended to specify which year's Pell Grant eligibility cap is used to establish eligibility for exceptional TEG need and to eliminate a potentially confusing reference to the Financial Aid Database. None of the amendments to this section reflect a change in the eligibility for the Tuition Equalization Grant.

Rule 22.25, Satisfactory Academic Progress, is amended to make clarifying changes to the rule language and citations. Subparagraph (b)(1)(A) is simplified by eliminating confusing and unnecessary language regarding satisfactory academic progress requirements following the student's second year in the TEG program.

Rule 22.26, Discontinuation of Eligibility or Non-Eligibility, is amended by making clarifying changes to the time-based discontinuation of eligibility provisions. The current rule language is ambiguous as to what constitutes the "anniversary" from which the five/six-year eligibility is measured. This language is amended to align both with Coordinating Board practice and with rule language in other programs in this chapter. There is no change in policy as a result of this amendment.

Rule 22.27, Hardship Provisions, is amended to conform the hardship provisions with the rule language throughout the chapter.

Rule 22.28, Grant Amounts, is amended by adding the "program maximum" concept that previously was contained in the term's definition in §22.22. There is no change in Coordinating Board policy or practice as a result of this amendment. The section is retitled to more closely align with naming conventions throughout the chapter, as well as the fact that no provisions in the section currently relate to grant adjustments.

Rule 22.29, Allocation of Funds, is amended to make non-substantive language improvements only. Allocation "base" is changed to "share" in paragraph (a)(2) to reflect that no alterations are made to the figure. There is no change to the allocation methodology as a result of these amendments.

Rule 22.30, Disbursement of Funds, is amended by making non-substantive language improvements and by adding a citation to relevant rules in the chapter's General Provisions.

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

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

Dr. Charles Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be improved rule clarity and readability. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

#### Government Growth Impact Statement

- (1) the rules will not create or eliminate a government program;
- (2) implementation of the rules will not require the creation or elimination of employee positions;
- (3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;
- (4) the rules will not require an increase or decrease in fees paid to the agency;
- (5) the rules will not create a new rule;
- (6) the rules will not limit an existing rule;
- (7) the rules will not change the number of individuals subject to the rule; and
- (8) the rules will not affect this state's economy.

Comments on the proposal may be submitted to Dr. Charles Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, P.O. Box 12788, Austin, Texas 78711-2788, or via email at SFAPPolicy@highered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The amendment is proposed under Texas Education Code, Section 61.229, which provides the Coordinating Board with the authority to adopt rules related to the Tuition Equalization Grant Program.

The proposed amendments affect Texas Administrative Code, Title 19, Part 1, Chapter 22.

#### §22.22. Definitions.

In addition to the words and terms defined in §22.1 of this chapter (relating to Definitions) [Texas Administrative Code 22.1] the following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

(1) Adjusted Gross Need [~~gross need~~]-An amount equal to a student's financial need less the amount of his or her Federal Pell Grant and any categorical aid the student might have brought to the institution.

(2) First Grant [~~award~~]-The first Tuition Equalization Grant ever offered [~~awarded~~] to and received by a specific student.

~~[(3) Forecast-The FORECAST function in Microsoft Excel.]~~

~~[(4) Private or independent institution-Any college or university defined as a private or independent institution of higher education by Texas Education Code, §61.003.]~~

~~[(5) Program maximum-The TEG Program award maximum determined by the Board in accordance with Texas Education Code, §61.227 (relating to Payment of Grant; Amount).]~~

(3) ~~[(6)]~~ Program or TEG--The Tuition Equalization Grant Program.

~~[(7) Religious ministry-Roles serving as clergy, religious leaders, or similar positions within any sect or religious society, as demonstrated through ordination, licensure to preach, or other mechanisms particular to a given sect or society that are used to identify clergy, religious leaders, or such similar positions.]~~

(4) ~~[(8)]~~ Subsequent Grant [~~award~~]-A TEG grant received in any academic year other than the year in which an individual received his or her first TEG grant [~~award~~].

(5) ~~[(9)]~~ Tuition Differential [~~differential~~]-The difference between the tuition paid at the private or independent institution attended and the tuition the student would have paid to attend a comparable public institution.

#### §22.23. Eligible Institutions.

##### (a) Eligibility.

(1) Any private or independent institution of higher education, as defined in §22.1 of this chapter (relating to Definitions), or a branch campus of a private or independent institution of higher education located in Texas and accredited on its own or with its main campus institution by the Commission on Colleges of the Southern Association of Colleges and Schools, [~~other than theological or religious seminaries,~~] is eligible to participate in the TEG Program.

(2) No participating institution may, on the grounds of race, color, national origin, gender, religion, age, or disability exclude an individual from participation in, or deny the benefits of, the program described in this subchapter.

(3) Each participating institution must follow the Civil Rights Act of 1964, Title VI (Public Law 88-352) in avoiding discrimination in admissions or employment.



(4) A private or independent institution of higher education that previously qualified under paragraph (1) of this subsection but no longer holds the same accreditation as public institutions of higher education may temporarily participate in the TEG Program if it is:

(A) accredited by an accreditor recognized by the Board;

(B) actively working toward the same accreditation as public institutions of higher education;

(C) participating in the federal financial aid program under 20 United States Code (U.S.C.) §1070a; and

(D) a "part B institution" as defined by 20 U.S.C. §1061(2) and listed in 34 Code of Federal Regulations §608.2.

(5) The Commissioner [~~Board~~] may grant temporary approval to participate in the TEG program to an institution described under paragraph (4) of this subsection for a period of two years. The Commissioner [~~Board~~] may renew that approval for a given institution twice, each for a period of two additional years.

(6) A private or independent institution of higher education that previously qualified under paragraph (1) of this subsection but no longer holds the same accreditation as public institutions of higher education is eligible to [~~may~~] participate in the TEG Program if it is:

(A) accredited by an accreditor recognized by the Board in accordance with [~~Texas Administrative Code,~~] §7.6 of this title (relating to Recognition of Accrediting Agencies);

(B) a work college, as that term is defined by 20 U.S.C. Section 1087-58; and

(C) participating in the federal financial aid program under 20 U.S.C. §1070(a).

(b) Participation Requirements [~~Approval~~].

(1) Agreement. Each eligible [~~approved~~] institution must enter into an agreement with the Coordinating Board, prior to participating [~~being approved to participate~~] in the program, the terms of which shall be prescribed by the Commissioner [~~or his/her designee~~].

(2) Intent to Participate. An eligible institution interested in participating in the Program must indicate this intent by June 1 of each odd-numbered year in order for qualified students enrolled in that institution to be eligible to receive grants in the following fiscal biennium. An eligible institution's data submissions, as required in §22.29 of this subchapter [~~Section 22.29~~] (relating to Allocation of Funds), must occur on or before the institution's indication of its intent to participate.

(c) Responsibilities. Participating institutions are required to abide by the General Provisions outlined in subchapter A [~~Chapter 22, Subchapter A~~] of this chapter [~~title~~] (relating to General Provisions).

§22.24. Eligible Students.

(a) To receive a grant [~~an award~~] through the TEG Program, a student must:

(1) be enrolled [~~on~~] at least three-quarter-time [~~a three-fourths of full-time enrollment~~];

(2) show financial need, as defined by §22.1 of this chapter (relating to Definitions);

(3) maintain satisfactory academic progress in his or her program of study as determined by the institution at which the person is enrolled and as required by §22.25 of this subchapter [~~title~~] (relating to Satisfactory Academic Progress);

(4) be a resident of Texas, as defined in §22.1 of this chapter [~~determined based on data collected using the Residency Core Questions and in keeping with Chapter 21, Subchapter B of this title (relating to Determination of Resident Status)~~];

(5) be enrolled in a participating [~~an approved~~] institution in an individual degree plan leading to the student's [~~a~~] first associate degree, first baccalaureate degree, first master's degree, first professional degree, or first doctoral degree, but not in a degree plan that is intended to lead to religious ministry;

(6) be required to pay more tuition than is required at a comparable public college or university and be charged no less than the tuition required of all similarly situated students at the institution; [~~and~~]

(7) not concurrently receive [~~be a recipient of~~] any form of athletic scholarship; and [~~during the semester or semesters he or she receives a TEG,~~]

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

(b) To demonstrate eligibility for exceptional TEG need, a student must:

(1) be an undergraduate student; and

(2) have a Student Aid Index [~~an expected family contribution~~] less than or equal to fifty percent of the Federal Pell Grant eligibility cap for the academic year in which the grant is offered [~~reported in the institution's Financial Aid Database submission~~].

§22.25. Satisfactory Academic Progress.

(a) Eligibility at End of First Grant [~~Award~~] Year. Students who complete their first year receiving a Tuition Equalization Grant in compliance with their institutions' financial aid satisfactory academic progress requirements[~~;~~] are eligible to receive subsequent awards in the following year if they meet the other requirements listed in §22.24 of this subchapter [~~title~~] (relating to Eligible Students).

(b) Eligibility at End of a Subsequent Grant [~~Award~~] Year. Students shall, unless granted a hardship provision in accordance with §22.27 of this subchapter [~~title~~] (relating to Hardship Provisions), as of the end of an academic year in which the student receives a subsequent grant [~~award~~]:

(1) have completed at least:

(A) for undergraduate students, 24 semester credit hours in the most recent academic year [~~;~~ or if at the end of the academic year in which the student receives a first award and the student entered college at the beginning of the spring term in the year in which he or she received his or her first award, have completed at least 12 semester credit hours in the most recent academic year]; or

(B) for graduate students, 18 semester credit hours in the most recent academic year;

(2) have an overall cumulative grade-point average of at least 2.5 on a four-point scale or its equivalent; and

(3) have completed at least 75 percent of the semester credit hours attempted in the most recent academic year.

(c) The institution shall calculate [~~calculation of~~] a student's GPA [~~is to be completed~~] in accordance with §22.10 of this chapter (relating to Grade Point Average Calculations for Satisfactory Academic Progress) [~~Chapter 22, Subchapter A of this title (relating to General Provisions)~~].

(d) The completion rate calculations may be made in keeping with institutional policies.

§22.26. *Discontinuation of Eligibility or Non-Eligibility.*

(a) Discontinuation of Eligibility.

(1) Unless granted a hardship provision in accordance with §22.27 of this subchapter [title] (relating to Hardship Provisions), an undergraduate student shall no longer be eligible for a TEG as of:

(A) five years from the start of the semester in which the student received his or her first grant [the fifth anniversary of the first award of a TEG to the student], if the student is enrolled in a degree or certificate program of four years or less; or

(B) six years from the start of the semester in which the student received his or her first grant [the sixth anniversary of the first award of a TEG to student], if the student is enrolled in a degree or certificate program of more than four years.

(2) A graduate student may continue to receive grants as long as he or she meets the relevant eligibility requirements of §22.24 and §22.25 of this subchapter [title] (relating to Eligible Students and Satisfactory Academic Progress respectively).

(b) Other than as described in §22.27 of this subchapter [title], if a person fails to meet any of the requirements for receiving a grant [an award] as outlined in §22.24 or §22.25 of this subchapter [title] after completion of any year, the person may not receive a TEG until he or she completes a semester of at least three-quarter-time enrollment while not receiving a TEG and meets all the requirements of §22.24 and [or] §22.25 of this subchapter [title] as of the end of that semester.

§22.27. *Hardship Provisions.*

(a) In the event of a hardship or for other good cause, the Program Officer at an eligible institution may allow an otherwise eligible student to receive a TEG [while]:

(1) while enrolled less than three-quarter-time [three-quarter of full-time enrollment];

(2) if the student's grade point average, number of hours completed, or percent of attempted hours completed falls below the satisfactory academic progress requirements as referred to in §22.25 of this subchapter [title] (relating to Satisfactory Academic Progress); or

(3) if the student has taken more time to complete his/her undergraduate certificate or degree than specified in §22.26 of this subchapter [title] (relating to Discontinuation of Eligibility or Non-Eligibility).

(b) Hardship conditions or other good cause may include, but are not limited to:

(1) documentation [a showing] of a severe illness or other debilitating condition that may affect the student's academic performance;

(2) documentation [an indication] that the student is responsible for the care of a sick, injured, or needy person and that the student's provision of care may affect his or her academic performance; [; or]

(3) documentation of the birth of a child or placement of a child with the student for adoption or foster care, that may affect the student's academic performance; or

(4) [(3)] a student's need to complete fewer than the required minimum number of hours in a given term in order to complete a degree, in which case the grant [award] amount should be determined on a pro rata basis for a full-time grant [award].

(c) The institution shall retain documentation of the approved hardship circumstances in the student's files, and the institution must identify students approved for a grant based on a hardship to the Coordinating Board.

(d) [(e)] Each institution shall adopt a hardship policy under this section and make [have] the policy publicly available to students [in writing in] through the financial aid office [for public review upon request].

§22.28. *Grant [Award] Amounts [and Adjustments].*

(a) The Coordinating Board will determine and announce the TEG program maximum in accordance with Texas Education Code, §61.227.

(b) [(a)] Grant [Award] Amount. Each academic year, no grant [TEG award] shall exceed the least of:

(1) the student's financial need;

(2) the student's tuition differential; or

(3) the maximum grant [award] allowed based on the student's EFC, which is:

(A) 150 percent of the program maximum for undergraduate students demonstrating exceptional TEG need, as outlined in §22.24(b) [§22.24] of this subchapter [Subchapter] (relating to Eligible Students); or

(B) the program maximum for all other eligible students.

(c) [(b)] Term or Semester Disbursement Limit. The amount of any disbursement in a single term or semester may not exceed the student's financial need or tuition differential for that term or semester or the program maximum for the academic year, whichever is the least.

(d) [(e)] Grant [Award] calculations and disbursements are to be completed in accordance with [Chapter 22, Subchapter A] subchapter A of this chapter [title] (relating to General Provisions).

§22.29. *Allocation of Funds.*

(a) The Coordinating Board determines allocations [Allocations] for the TEG Program [are to be determined] on an annual basis as follows:

(1) The Coordinating Board will invite [AH] eligible institutions [will be invited] to participate; those choosing not to participate will be left out of the calculations for the relevant year.

(2) The allocation share [base] for each institution choosing to participate will be its three-year average share of the total statewide amount of the total amount of TEG funds that eligible students at an approved institution could receive if the program were fully funded, subject to the limits in Texas Education Code, §61.227(c) and (e), based on the students who met the following criteria:

(A) Enrollment on at least a three-quarter-time [three-fourths or three-quarters] basis;

(B) A Student Aid Index [An Expected Family Contribution], calculated using federal methodology, that results in demonstrated Adjusted Gross Need greater than zero;

(C) Maintain satisfactory academic progress in his or her program of study as required by §22.24(a)(3) [§22.24(b)] of this subchapter [title] (relating to Eligible Students);

(D) Classified as a Resident of Texas;

(E) Be enrolled in an approved institution in an individual degree plan leading to a first associate [associates] degree, first

baccalaureate degree, first master's degree, first professional degree, or first doctoral degree;

~~{(F) Not be enrolled in a degree plan that is intended to lead to religious ministry;}~~

~~(F) [(G)]~~ Be required to pay more tuition than is required at a comparable public college or university and be charged no less than the tuition required of all similarly situated students at the institution; and

~~(G) [(H)]~~ Not be a recipient of any form of athletic scholarship.

(3) The source of data used for the allocations are the three most recently certified Financial Aid Database (FADS) reports submitted to the Coordinating Board by the institutions.

(4) A student's TEG need may not exceed the least of his or her adjusted gross need, tuition differential, or the TEG maximum award as set in accordance with Texas Education Code, §61.227(c).

(5) A student's exceptional TEG need plus TEG need may not exceed the least of the student's adjusted gross need, tuition differential or 150 percent of the current year's statutory TEG maximum award as set in accordance with Texas Education Code, §61.227(c).

(6) The maximum amount of need that may be recorded for any single student in the allocation calculation may not exceed the sum of his or her TEG need plus his or her exceptional TEG need.

(7) The total amount allocated for an institution may not exceed the sum of the individual maximum amount of need for all students calculated using the sources of data outlined in paragraph (3) of this subsection.

(8) Verification of Data. The Coordinating Board will provide the TEG allocation spreadsheet [~~will be provided~~] to the institutions for review and the institutions will be given 10 business [~~working~~] days, beginning the day of the notice's distribution and excluding State holidays, to confirm that the spreadsheet accurately reflects the data they submitted or to advise the Coordinating Board [~~staff~~] of any inaccuracies.

(9) The Coordinating Board will complete allocations [~~Allocations~~] for both years of the state appropriations' biennium [~~will be completed~~] at the same time. For the allocations process of the second year of the state appropriations' biennium, the sources of data outlined in paragraph (3) of this subsection will be utilized to forecast an additional year of data. This additional year of data, in combination with the two most recent years outlined in paragraph (3) of this subsection, will be utilized to calculate the three-year average share outlined in paragraph (2) of this subsection. Institutions will receive notification of their allocations for both years of the biennium at the same time.

(b) Reductions in Funding.

(1) If annual funding for the program is reduced after the start of a fiscal year, the Coordinating Board may take steps to help distribute the impact of reduced funding across all participating institutions by an across-the-board percentage decrease in all institutions' allocations.

(2) If annual funding for the program is reduced prior to the start of a fiscal year, the Coordinating Board may recalculate the allocations according to the allocation methodology outlined in this rule for the affected fiscal year based on available dollars.

§22.30. *Disbursement of Funds.*

As requested by institutions throughout the academic year, the Coordinating Board shall forward to each participating institution a portion of its allocation of funds for timely disbursement to students in accordance with §22.2 of this chapter (relating to Timely Distribution of Funds). Institutions will have until the close of business on August 1, or the first working day thereafter if it falls on a weekend or holiday, to encumber program funds from their allocation. After that date, institutions lose claim to any funds in the current fiscal year not yet drawn down from the Coordinating Board for timely disbursement to students. Funds released in this manner in the first year of the biennium become available to the institution for use in the second year of the biennium. Funds released in this manner in the second year of the biennium become available to the Board's program for utilization in grant processing. Should these unspent funds result in additional funding available for the next biennium's program, revised allocations, calculated according to the allocation methodology specified in §22.29 of this subchapter (relating to Allocation of Funds), will be issued to participating institutions during the fall semester.

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

Filed with the Office of the Secretary of State on January 23, 2025.

TRD-202500214

Nichole Bunker-Henderson

General Counsel

Texas Higher Education Coordinating Board

Earliest possible date of adoption: March 9, 2025

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



## SUBCHAPTER L. TOWARD EXCELLENCE, ACCESS, AND SUCCESS (TEXAS) GRANT PROGRAM

### 19 TAC §§22.226 - 22.231, 22.233, 22.234, 22.236, 22.238, 22.241

The Texas Higher Education Coordinating Board (Coordinating Board) proposes amendments and new rules in Texas Administrative Code, Title 19, Part 1, Chapter 22, Subchapter L, §§22.226 - 22.231, 22.233, 22.234, 22.236, 22.238, and 22.241, concerning the Toward EXcellence, Access, and Success (TEXAS) Grant Program. Specifically, this amendment and new section will align rule language and terminology with rules throughout the chapter, resolve potential ambiguities in rule language, and improve the overall readability of the subchapter.

The Coordinating Board is authorized to adopt rules related to the TEXAS Grant Program by Texas Education Code, §56.303.

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 "grant" as a noun and "offer" as a verb, to avoid potential confusion.

Rule 22.226, Definitions, is amended by eliminating several duplicative or unnecessary definitions and aligning remaining ones

with defined terms in the General Provisions of the chapter. The terms defined in current paragraphs (2), (3), (6), (8), and (13) all are defined in (or are proposed to be defined in) rule 22.1 in the chapter's General Provisions. "Encumbered funds" is unused in the subchapter and accordingly, is eliminated, as "encumber" is already defined in the chapter's General Provisions. The terms "public institution" and "private institution" are eliminated for rule clarity, owing to their proximity to defined terms "institution of higher education" and "private or independent institution of higher education."

Rule 22.227, Eligible Institutions, is amended by eliminating (in paragraph (a)(1)) unnecessary provisions related to the phase out of TEXAS grants offered by two-year institutions of higher education and aligning rule language to defined terms.

Rule 22.228, Eligible Students, is amended to align the rule language with defined terms and clarify a few eligibility criteria. The Coordinating Board's interpretation of the requirement to "have applied for any available financial aid assistance" (paragraph (a)(3)) in this and other programs is for the student to have completed the Free Application for Federal Student Aid or, as needed, the Texas Application for State Financial Aid. The amendments to the rule improve the clarity of the rule and align with current practice. Similarly, the amendments specify that paragraph (a)(5) refers to the Selective Service requirement. Subparagraphs (a)(6)(C) and (a)(6)(D) are clarified by removing the word "continuing" before "undergraduate student." In the context of the rule, it appeared that "continuing" was intended to contrast with "entering undergraduate" in subparagraphs (a)(6)(A) and (a)(6)(B), when in fact, the word does not have a specific meaning. For clarity's sake, then, it is removed. Finally, current paragraph (b)(7) is changed to subsection (c) to establish that it is conceptually different from the continuation grant eligibility criteria listed in subsection (b).

Rule 22.229, Satisfactory Academic Progress, is amended by updating rule language to use defined terms and more specific citations to other rules in the chapter and subchapter.

Rule 22.230, Discontinuation of Eligibility or Non-Eligibility, is amended by adding subsection (a), a restriction on a TEXAS Grant recipient concurrently receiving a Texas Educational Opportunity Grant or Texas Transfer Grant. This restriction aligns with current practice. Rule language in paragraphs (e)(1) and (e)(2) regarding time-related discontinuation of eligibility in certain circumstances is updated to align with the more specific language in subsection (d).

Rule 22.231, Hardship Provisions, is amended to align the subchapter's hardship provisions with those of other programs in this chapter. The provision related to completion rate in paragraph (a)(3) is eliminated as it is no longer relevant to the program.

Rule 22.233, Priority in Grants to Students, is amended to replace the term "expected family contribution" with the newer, "Student Aid Index" (no change in meaning) and to correct a citation.

Rule 22.234, Grant Amounts, is amended by rephrasing subsection (d) for improved readability. The amendments do not represent a change in policy.

Rule 22.236, Allocation and Disbursement of Funds, is amended by aligning rule language with defined terms, making nonsubstantive clarifying edits, and separating provisions relating to disbursement of funds to a separate section. The section is retitled accordingly. Subparagraph (a)(1)(B) is corrected by eliminating

the word "entering" before "undergraduate transfer student." The term "entering undergraduate" is defined in §22.226 of the subchapter but used inadvertently here simply to mean "undergraduate transfer student entering an institution." This amendment does not reflect a change in allocation methodology. Paragraph (a)(2) is eliminated, as it relates to the phase out of TEXAS grants offered by two-year institutions of higher education. Finally, subsection (d) is removed and reconstituted as §22.238. There are no changes to the allocation methodology as a result of any amendment to this rule.

Rule 22.238, Disbursement of Funds, is added as the reconstituted §22.236(b), with no changes other than an added citation to a relevant rule in the chapter's General Provisions.

Rule 22.241, Tolling of Eligibility for Initial Year Grant, is amended by aligning language to defined terms and updating citations to other rules in the subchapter.

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

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

Dr. Charles Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be improved rule clarity and readability. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

#### Government Growth Impact Statement

- (1) the rules will not create or eliminate a government program;
- (2) implementation of the rules will not require the creation or elimination of employee positions;
- (3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;
- (4) the rules will not require an increase or decrease in fees paid to the agency;
- (5) the rules will not create a new rule;
- (6) the rules will not limit an existing rule;
- (7) the rules will not change the number of individuals subject to the rule; and
- (8) the rules will not affect this state's economy.

Comments on the proposal may be submitted to Dr. Charles Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, P.O. Box 12788, Austin, Texas 78711-2788, or via email at SFAPPolicy@highered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The amendments and new section are proposed under Texas Education Code, Section 56.303, which provides the Coordinat-

ing Board with the authority to adopt rules related to the Toward EXcellence, Success, and Access (TEXAS) Grant Program.

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

§22.226. *Definitions.*

In addition to the words and terms defined in §22.1 of this chapter (relating to Definitions), the following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

(1) Continuation Grant [~~grant~~]-A TEXAS Grant offered to a person who has previously received an initial year grant.

~~[(2) Degree program of four years or less--A baccalaureate degree program, other than a program determined by the Board to require more than four years to complete.]~~

~~[(3) Degree program of more than four years--A baccalaureate degree program determined by the Board to require more than four years to complete.]~~

~~[(4) Encumbered Funds--Funds ready for disbursement to the institution, based on the institution having submitted to the Board the required documentation to request funds.]~~

(2) ~~[(5)]~~ Entering Undergraduate [~~undergraduate~~]-A student enrolled in the first ~~thirty~~ [30] semester credit hours or their equivalent, excluding hours taken during dual enrollment in high school and courses for which the student received credit through examination.

~~[(6) General Academic Teaching Institution--As the term is defined in Texas Education Code, §61.003(3).]~~

(3) ~~[(7)]~~ Initial Year Grant [~~year grant~~]-The TEXAS Grant offered in the student's first year in the TEXAS Grant Program[, typically made up of a fall and spring disbursement].

~~[(8) Medical or dental unit--As the term is defined in Texas Education Code, §61.003(5).]~~

~~[(9) Public Institution--As the term, institution of higher education, is defined in Texas Education Code, §61.003(8).]~~

(4) ~~[(40)]~~ Prior-Prior Year [~~Prior-prior year~~]-For allocation purposes, the state fiscal year that began two years earlier than the fiscal year for which the allocation is being calculated.

~~[(11) Private Institution--As the term, private or independent institution of higher education, is defined in Texas Education Code, §61.003(15).]~~

(5) ~~[(42)]~~ Program-The Toward EXcellence, Access and Success (TEXAS) Grant program.

~~[(13) Public state college--As the term is defined in Texas Education Code, §61.003(16).]~~

(6) ~~[(44)]~~ Required Fees [~~fees~~]-A mandatory fee (required by statute) or discretionary fee (authorized by statute, imposed by the governing board of a [public] institution of higher education) and that a [public] institution of higher education charges to a student as a condition of enrollment at the [public] institution of higher education or in a specific course.

(7) ~~[(45)]~~ Target Grant Amount [~~grant amount~~]-An amount set by the Coordinating Board, in consultation with [public] institutions of higher education participating in the TEXAS Grant Program, and used as the recommended average grant amount for the TEXAS Grant Program for a biennium and in establishing renewal

year allocations to participating [public] institutions of higher education as described in §22.236(a)(1) of this chapter [title] (relating to Allocation and Reallocation of Funds).

(8) ~~[(46)]~~ Tuition--Statutory tuition, designated and/or Board-authorized tuition, as defined in §13.142 of this title (relating to Definitions).

§22.227. *Eligible Institutions.*

(a) Eligibility.

(1) Institutions eligible to make initial year and continuation grants in the program are medical or dental units and general academic teaching institutions, other than the public state colleges, as defined in §22.1 of this chapter (relating to Definitions). ~~[Other public institutions, including public state colleges, are only eligible to make continuation grants, and can make continuation grants only to persons who initially received TEXAS Grants prior to fall 2014 through a public state college, community college, or technical college.]~~

(2) No participating [public] institution may, on the grounds of race, color, national origin, gender, religion, age, or disability exclude an individual from participation in, or deny the benefits of the program described in this subchapter.

(3) Each participating [public] institution must follow the Civil Rights Act of 1964, Title VI (Public Law 88-353) in avoiding discrimination in admissions or employment.

(b) Approval.

(1) Agreement. Each eligible [public] institution must enter into an agreement with the Coordinating Board, the terms of which shall be prescribed by the Commissioner [or his/her designee], prior to being approved to participate in the program.

(2) Approval Deadline. An eligible [public] institution must enter into an agreement with the Coordinating Board and indicate an intent to participate in the program by April 1 in order for qualified students enrolled in that [public] institution to be eligible to receive grants in the following fiscal year.

(c) Responsibilities. Participating [public] institutions are required to abide by the General Provisions outlined in subchapter A of this chapter [Chapter].

§22.228. *Eligible Students.*

(a) To qualify for an initial year grant, a person [who graduates from high school] must:

(1) be enrolled in a baccalaureate program at a participating institution [medical or dental unit or general academic teaching institution other than public state colleges];

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

(3) show financial need, as defined in §22.1 of this chapter [meet financial need requirements established by the Board];

(4) have applied for [any available] financial aid through the completion of the Federal Application for Federal Student Aid or, if the student is not eligible for federal financial aid, the Texas Application for State Financial Aid [assistance];

(5) meet applicable standards outlined in §22.3 of this chapter (relating to Student Compliance with Selective Service Registration) [Subchapter A of this Chapter]; and

(6) Except as provided under §22.231 of this subchapter [title] (relating to Hardship Provisions), to receive an initial year grant,

an otherwise eligible person must enroll in a baccalaureate degree program at a participating [an eligible public] institution on at least a three-quarter time basis as:

(A) an entering undergraduate student not later than the end of the sixteenth [16th] month after the calendar month in which the person graduated from high school; or

(B) an entering undergraduate student who entered military service not later than the first anniversary of the date of high school graduation and enrolled in an eligible [public] institution no later than twelve [12] months after being released from active duty military service with an Honorable Discharge, General Discharge under Honorable Conditions, or Honorable Separation or Release from Active Duty, as documented by the Certificate of Release or Discharge from Active Duty (DD214) issued by the Department of Defense;

(C) an [a continuing] undergraduate student not later than the end of the twelfth [12th] month after the calendar month in which the student received an associate degree; or

(D) an [a continuing] undergraduate student who has:

(i) previously attended another [a public] institution of higher education, as defined in §22.1 of this chapter;

(ii) received an initial Texas Educational Opportunity Grant under subchapter M [Subchapter M] of this chapter (relating to Texas Educational Opportunity Grant Program) [Chapter] for the 2014 fall semester or a subsequent semester;

(iii) completed at least twenty-four [24] semester credit hours at any institution(s) of higher education or private or independent institution(s) of higher education, as defined in §22.1 of this chapter [public institution(s) or private institution(s)];

(iv) earned an overall grade point average of at least 2.5 on a four-point scale or the equivalent on all course work previously attempted; and

(v) has never previously received a TEXAS Grant.

(b) Continuation Grants. To receive a continuation grant through the TEXAS Grant Program, a student must:

(1) have previously received an initial year grant through this Program [program];

(2) show financial need, as defined in §22.1 of this chapter [in the semester(s) in which a TEXAS Grant is offered];

(3) be enrolled at least three-quarter time [in the semester(s) in which a TEXAS Grant is offered] unless granted a hardship waiver of this requirement under §22.231 of this subchapter (relating to Hardship Provisions) [title];

(4) be enrolled in a baccalaureate program at a participating [the eligible public] institution;

(5) make satisfactory academic progress towards a baccalaureate degree at the participating [eligible public] institution, as defined in §22.229 of this subchapter [title] (relating to Satisfactory Academic Progress); and

(6) meet applicable standards outlined in §22.3 of this chapter (relating to Student Compliance with Selective Service Registration). [Subchapter A of this Chapter; and]

(c) [(7)] If [if] a student's eligibility was based on the expectation that the student would complete a high school diploma or associate degree in time to meet the requirements for Program eligibility, and the student failed to do so, then, in order to resume eligibility, such a student must:

(1) [(A)] receive an associate degree;

(2) [(B)] meet all other qualifications for a TEXAS Grant;

(3) [(C)] if required to do so by the institution through which the TEXAS Grant was made, repay the amount of the TEXAS Grant that was previously received; and

(4) [(D)] enroll in a higher-level undergraduate degree program at a participating [in an eligible public] institution not later than the twelfth [12th] month after the month the student received an associate degree.

§22.229. *Satisfactory Academic Progress.*

(a) To qualify for a continuation grant after the academic year in which a person receives an initial year grant, each recipient of the TEXAS Grant shall meet the academic progress requirements [as indicated by the financial aid office] of his or her institution.

(b) To receive a subsequent grant after he or she receives a continuation grant, a recipient shall, unless granted a hardship waiver of this requirement [postponement] in accordance with §22.231 of this subchapter [title] (relating to Hardship Provisions):

(1) complete at least twenty-four [24] semester credit hours in his or her most recent academic year; and,

(2) maintain an overall grade point average of at least 2.5 on a four point scale or its equivalent, for all coursework attempted at an institution of higher education or private or independent institution of higher education, as defined in §22.1 of this chapter (relating to Definitions) [public institutions and private institutions].

(3) An entering undergraduate student enrolling in a participating [public] institution for the second or later semester in a given academic year meets the semester-credit-hour requirement outlined in paragraph [subparagraph] (1) of this subsection for continuing in the program if he or she completes at least twelve [12] semester credit hours or its equivalent during that semester.

(c) The calculation of a student's GPA is to be completed in accordance with §22.10 of this chapter (relating to Grade Point Average Calculations for Satisfactory Academic Progress) [the General Provisions outlined in Subchapter A of this Chapter].

(d) The completion rate calculations may be made in keeping with institutional policies.

§22.230. *Discontinuation of Eligibility or Non-Eligibility.*

(a) A student may not receive a TEXAS Grant while concurrently receiving a Texas Educational Opportunity Grant or Texas Transfer Grant.

(b) [(a)] A student may not receive a TEXAS Grant after having already being granted a baccalaureate degree.

(c) [(b)] A student may not receive a TEXAS Grant for a semester in which he or she is enrolled for fewer than six hours.

(d) [(c)] Unless granted a hardship postponement in accordance with §22.231 of this subchapter [title] (relating to Hardship Provisions), eligibility for a TEXAS Grant for a student whose eligibility for an initial year TEXAS Grant was not based on the receipt of an associate degree ends:

(1) five years from the start of the semester in which the student received his or her first disbursement of an initial year TEXAS Grant, if the student is enrolled in a degree program of four years or less;

(2) six years from the start of the semester in which the student received his or her first disbursement of an initial year TEXAS

Grant, if the student is enrolled in a degree program of more than four years.

(c) [(d)] Unless granted a hardship postponement in accordance with §22.231 of this subchapter [title], eligibility for a TEXAS Grant for a student whose eligibility was based on receiving an associate degree ends:

(1) three years from the start [date] of the semester in which the student received his or her first disbursement of an initial year TEXAS Grant if the student is enrolled in a degree program of four years or less;

(2) four years from the start [date] of the semester in which the student received his or her first disbursement of an initial year TEXAS Grant if the student is enrolled in a degree program of more than four years.

(f) [(e)] A student's eligibility ends one year from the date of the semester in which the student received his or her first disbursement of an initial year TEXAS Grant, if the student's eligibility was based on the expectation that the student would complete the initial year grant requirements as outlined in §22.228 of this subchapter [title] (relating to Eligible Students), but the student failed to do so. However, if such a student later receives an associate degree and again qualifies for TEXAS Grants, as described by §22.228(c) of this subchapter, he or she can receive an additional three years of eligibility if enrolled in a degree program of four years or less, or an additional four years if enrolled in a degree program of more than four years.

(g) [(f)] A student's eligibility for a TEXAS Grant ends once he or she has attempted 150 semester credit hours or the equivalent unless the student is granted a hardship extension in accordance with §22.231(d) of this subchapter [title (relating to Hardship Provisions)].

(h) [(g)] A person is not eligible to receive an initial year or continuation grant if the person has been convicted of a felony or of an offense under Chapter 481, Health and Safety Code (Texas Controlled Substances Act), or under the law of any other jurisdiction involving a controlled substance as defined by Chapter 481, Health and Safety Code, unless the person has met the other applicable eligibility requirements under this subchapter and has:

(1) received a certificate of discharge by the Texas Department of Criminal Justice or a correctional facility or completed a period of probation ordered by a court, and at least two years have elapsed from the date of the receipt or completion; or

(2) been pardoned, had the record of the offense expunged from the person's record, or otherwise been released from the resulting ineligibility to receive a TEXAS Grant.

(i) [(h)] Other than as described in §22.231 of this subchapter [title], if a person fails to meet any of the requirements for receiving a continuation grant as outlined in §22.228(b) of this subchapter after completion of any semester, the person may not receive a TEXAS Grant until he or she completes a semester while not receiving a TEXAS Grant and meets all the requirements as outlined in §22.228(b) of this subchapter as of the end of that semester.

#### §22.231. *Hardship Provisions.*

(a) In the event of a hardship or for other good cause, the Program Officer at a participating [an eligible public] institution may allow an otherwise eligible person to receive a TEXAS Grant under the following conditions:

(1) while enrolled in less than nine semester credit hours;

(2) if the student's grade point average falls below the satisfactory academic progress requirements of §22.229 of this subchapter [title] (relating to Satisfactory Academic Progress);

[(3) if the student's completion rate falls below the satisfactory academic progress requirements of §22.229 of this subchapter;]

(3) [(4)] if the student's number of completed hours falls below the satisfactory academic progress requirements of §22.229 of this subchapter; or

(4) [(5)] if the student requires an extension of the year limits found in §22.230 of this subchapter (relating to Discontinuation of Eligibility or Non-Eligibility) to complete his or her degree.

(b) Hardship or other good causes are not limited to, but include:

(1) documentation [a showing] of a severe illness or other debilitating condition that may affect the student's academic performance;

(2) documentation [an indication] that the student is responsible for the care of a sick, injured, or needy person and that the student's provision of care may affect his or her academic performance; [or]

(3) documentation of the birth of a child or placement of a child with the student for adoption or foster care, that may affect the student's academic performance; or

(4) [(3)] the requirement of fewer than nine hours to complete one's degree plan.

(c) The Program Officer may allow a student to receive his/her initial year grant after the time limits described in §22.228(a)(6) of this subchapter [Section 22.228(a)(6)] (relating to Eligible Students) if the student and/or the student's family has suffered a hardship that would now make the student rank as one of the institution's neediest.

(d) The Program Officer may allow a student to receive a grant after attempting more hours than allowed under §22.230(f) of this subchapter [title] (relating to Discontinuation of Eligibility or Non-Eligibility) in the event of hardship. However, the total number of hours paid for, at least in part, with TEXAS Grant funds may not exceed 150 semester credit hours or the equivalent.

(e) Documentation justifying the eligibility granted through the hardship provisions outlined in this rule must be kept in the student's file. Institutions must identify to the Coordinating Board those students granted eligibility through hardship provisions, so that the Coordinating Board may appropriately monitor each student's period of eligibility.

(f) Each participating [public] institution shall adopt a hardship policy under this section and have the policy available in writing in the financial aid office for public review upon request.

#### §22.233. *Priority in Grants to Students.*

(a) If appropriations for the program are insufficient to allow grants to all eligible students, priority shall be given to those students demonstrating continuing TEXAS Grant eligibility pursuant to §22.228(b) of this subchapter (relating to Eligible Students).

(b) In determining student eligibility for a TEXAS Grant pursuant to §22.228(a) of this subchapter, priority shall be given to those students who demonstrate the greatest financial need at the time the offer is made.

(c) In determining student eligibility for a TEXAS Grant pursuant to §22.228(a) of this subchapter, priority shall be given to those students who have a Student Aid Index [an expected family contribu-

tion] that does not exceed 60 percent of the average statewide amount of tuition and required fees for general academic teaching institutions for the relevant academic year.

(d) In determining initial student eligibility for a TEXAS Grant pursuant to §22.228(a) of this subchapter, priority shall be given to those students who graduate or are on track to graduate from a public or accredited private high school in Texas on or after May 1, 2013, and complete or are on track to complete the Foundation High School program, or its equivalent as amended in keeping with Texas Education Code, §56.009. The person must also be on track to have accomplished any two or more of the following at the time a TEXAS Grant was offered:

(1) successful completion of the course requirements of the international baccalaureate diploma program, or earning of the equivalent of at least twelve [12] semester credit hours of college credit in high school through courses described in Texas Education Code, §28.009(a)(1), (2), and (3), or if graduating prior to September 1, 2020, graduate under the Recommended or Advanced high school curriculum specified in the Texas Education Code, §28.025 as it existed as of January 1, 2013, and the rules promulgated thereunder by the State Board of Education;

(2) satisfaction of the Texas Success Initiative (TSI) college readiness benchmarks prescribed by the Coordinating Board under Texas Education Code, §51.334 [~~§51.3062(f)~~] on any assessment instrument designated by the Coordinating Board under that section [~~Texas Education Code, §51.3062(e)~~] or qualification for an exemption as described by Texas Education Code, §51.338(b), (c), or (d) [~~§51.3062(p), (q), or (q-1)~~];

(3) graduation in the top one-third of the person's high school graduating class or graduation from high school with a grade point average of at least 3.0 on a four-point scale or the equivalent; or

(4) completion for high school credit of at least one advanced mathematics course following the successful completion of an Algebra II course, or at least one advanced career and technical or technical applications course;

(e) If funds remain after TEXAS Grants are offered to all students meeting the criteria in subsection [~~subparagraph~~] (d) of this section [~~paragraph~~], remaining funds may be offered to persons who are otherwise eligible for TEXAS Grants.

#### §22.234. Grant Amounts.

(a) The amount of a TEXAS Grant offered through an eligible [~~public~~] institution may not be reduced by any gift aid for which the person receiving the grant is eligible, unless the total amount of a person's grant plus any aid other than loans received equals or exceeds the student's financial need.

(b) The Coordinating Board shall determine and announce the maximum amount of a TEXAS Grant not later than the final day of January prior to the start of each fiscal year. The calculation of the maximum amount per semester will be based on the mandates contained in Texas Education Code, §56.307. However, no student's TEXAS Grant shall be greater than the amount of the student's financial need.

(c) A participating [~~An eligible public~~] institution may not charge a person receiving a TEXAS Grant through that institution, an amount of tuition and required fees in excess of the amount of the TEXAS Grant received by the person in that semester unless it also provides the student sufficient aid other than loans to meet his or her full tuition and required fees for that semester. Nor may it deny admission to or enrollment in the institution based on a person's eligibility to receive or actual receipt of a TEXAS Grant.

(d) If a [~~The eligible public institution may require a student to forgo or repay the amount of an initial year grant if the~~] student is determined to have failed to complete the necessary High School Program or Associate Degree [~~]~~ upon which eligibility for the program was determined, a participating institution may require the student to forgo or repay the amount of the student's initial year grant [~~as evidenced by the final high school or college transcript~~].

(e) Grant calculations and disbursements are to be completed in accordance with the General Provisions outlined in subchapter A [~~Subchapter A~~] of this chapter [~~Chapter~~].

#### §22.236. Allocation [~~and Disbursement~~] of Funds.

(a) Allocations [~~for Fiscal Year 2017 and Later~~].

(1) The share of funds for each eligible institution [~~eligible to make both initial and continuation awards~~] will equal:

(A) the number of Initial Year [~~Award~~] TEXAS Grant recipients at the institution in the Prior-Prior Year multiplied by the percentage of Initial Year [~~Award~~] TEXAS Grant recipients in the year prior to the Prior-Prior Year who received a Continuation Grant [~~Renewal Award~~] in the Prior-Prior Year; plus the number of Continuation Grant [~~Renewal Award~~] TEXAS Grant recipients at the institution in the Prior-Prior Year multiplied by the percentage of Continuation Grant [~~Renewal Award~~] TEXAS Grant recipients in the year prior to the Prior-Prior Year who received a Continuation Grant [~~Renewal Award~~] in the Prior-Prior Year, multiplied by the institution's average TEXAS Grant amount in the Prior-Prior Year, up to the amount of the Target Grant Amount [~~Award~~] for the fiscal year for which allocations are occurring; plus

(B) the institution's proportions of the remaining appropriation is based on the sum of the number of students who were reported as a first time enrolling freshman; or an [~~entering~~] undergraduate transfer student who completed an associate [~~associate's~~] degree within the prior twelve [12] months to enrolling; or an [~~entering~~] undergraduate transfer student who received an Initial TEOG grant [~~award~~] for the Fall 2014 semester or later, has completed at least twenty-four [24] semester credit hours, and has earned an overall GPA of at least 2.5 on a four-point scale on all course work previously attempted, and:

(i) were enrolled as undergraduate students and had not yet received a Bachelor's degree;

(ii) were identified as [~~Texas~~] residents of Texas;

(iii) were enrolled at least three-quarter-time [~~3/4-time~~]; and

(iv) had a 9-month Student Aid Index [~~Expected Family Contribution~~], calculated using federal methodology, that was less than or equal to the cap established for TEXAS Grant in the Prior-Prior Year.

{2} Institutions who are only eligible to make continuation awards will not receive a specific allocation. Those schools will have until August 1, or the first working day thereafter if it falls on a weekend or holiday, to submit for reimbursement any award for a student who is identified as eligible and is awarded a TEXAS Grant. Those awards will be funded through any unenumerated program funds.]

(2) [(3)] The TEXAS Grant allocation spreadsheet will be provided to the institutions for review and the institutions will be given ten [10] working days, beginning the day of the notice's distribution and excluding State holidays, to confirm that the spreadsheet accurately reflects the data they submitted or to advise the Coordinating Board [~~staff~~] of any inaccuracies.



[(b) Disbursement of Funds to Institutions. As requested by institutions throughout the academic year, the Board shall forward to each participating institution a portion of its allocation of funds for timely disbursement to students. Institutions will have until the close of business on August 1, or the first working day thereafter if it falls on a weekend or holiday, to encumber program funds from their allocation. After that date, institutions lose claim to any funds in the current fiscal year not yet drawn down from the Board for timely disbursement to students. Funds released in this manner in the first year of the biennium become available to the institution for use in the second year of the biennium. Funds released in this manner in the second year of the biennium become available to the Board for utilization in grant processing. Should these unspent funds result in additional funding available for the next biennium's program, revised allocations, calculated according to the allocation methodology outlined in this rule, will be issued to participating institutions during the fall semester.]

(b) [(e)] Reductions in Funding.

(1) If annual funding for the program is reduced after the start of a fiscal year, the Coordinating Board may take steps to help distribute the impact of reduced funding across all participating institutions by an across-the-board percentage decrease in all institutions' allocations.

(2) If annual funding is reduced prior to the start of a fiscal year, the Coordinating Board may recalculate the allocations according to the allocation methodology outlined in this rule for the affected fiscal year based on available dollars.

§22.238. Disbursement of Funds.

As requested by an institution throughout the academic year, the Coordinating Board shall forward to each participating institution a portion of its allocation of funds for timely disbursement to students in accordance with §22.2 of this chapter (relating to Timely Disbursement of Funds). An institution will have until the close of business on August 1, or the first working day thereafter if it falls on a weekend or holiday, to encumber program funds from their allocation. After that date, an institution shall lose claim to any funds in the current fiscal year not yet drawn down from the Coordinating Board for timely disbursement to students. Funds released in this manner in the first year of the biennium become available to the institution for use in the second year of the biennium. Funds released in this manner in the second year of the biennium become available to the Coordinating Board for utilization in grant processing. Should these unspent funds result in additional funding available for the next biennium's program, revised allocations, calculated according to the allocation methodology outlined in this rule, will be issued to participating institutions during the fall semester.

§22.241. Tolling of Eligibility for Initial Year Grant.

(a) A person is eligible for consideration for an Initial Year grant [award] under this subsection if the person was eligible for an initial year grant under §22.228 of this subchapter [title] (relating to Eligible Students) in an academic year for which the Texas Legislature failed to appropriate sufficient funds to make initial year grant to at least 10 percent of the eligible student population, and:

- (1) has not received a TEXAS Grant in the past;
- (2) has not received a baccalaureate degree; and

(3) meets the eligibility requirements for a continuation grant as described in §22.228(b) of this subchapter [§22.228(d) of this title].

(b) A person who meets the requirements outlined in subsection (a) of this section:

(1) cannot be disqualified for a TEXAS Grant by changes in program requirements since the time he or she was originally eligible or by the amount of time that has passed since he or she was originally eligible;

(2) is to receive highest priority in the selection of recipients if he or she met the priority model requirements of §22.233(d) of this title (relating to Priority in Grants [Awards] to Students), when originally determined to be eligible;

(3) may continue receiving grants as long as he or she meets the requirements for such continuation grants; and

(4) may not receive TEXAS Grants for prior academic years.

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

Filed with the Office of the Secretary of State on January 23, 2025.

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Nichole Bunker-Henderson

General Counsel

Texas Higher Education Coordinating Board

Earliest possible date of adoption: March 9, 2025

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



## SUBCHAPTER M. TEXAS EDUCATIONAL OPPORTUNITY GRANT PROGRAM

### 19 TAC §§22.254 - 22.262, 22.264, 22.265

The Texas Higher Education Coordinating Board (Coordinating Board) proposes amendments to Texas Administrative Code, Title 19, Part 1, Chapter 22, Subchapter M, §§22.254 - 22.262, 22.264, and 22.265, concerning the Texas Educational Opportunity Grant Program. Specifically, this amendment will align rule language and terminology with other programs in the chapter and clarify potential ambiguities in the rules.

The Coordinating Board is authorized to adopt rules relating to the Texas Educational Opportunity Grant (TEOG) Program by Texas Education Code, §56.403.

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 "grant" as a noun and "offer" as a verb, to avoid potential confusion.

Rule 22.254, Definitions, is amended by eliminating the term "forecast," which is being added to §22.1 in the chapter's General Provisions, and by making nonsubstantive changes to existing definitions to align with terminology and usage throughout the chapter.

Rule 22.255, Eligible Institutions, is amended to make nonsubstantive changes related to citations to other rules in the chapter and to clarify references to the TEOG program by capitalizing the word Program as appropriate.

Rule 22.256, Eligible Students, is amended by aligning rule language with defined terms and clarifying subsection (a)(3). The Coordinating Board's interpretation of the requirement to "have applied for any available financial aid assistance" in this and other programs is for the student to have completed the Free Application for Federal Student Aid or, as needed, the Texas Application for State Financial Aid. The amendments to the rule improve the clarity of the rule and align with current practice. Also added is subsection (a)(6), which relates to the Selective Service eligibility requirement. This, too, is current practice but was inadvertently excluded from the rule. None of these amendments reflect a change in eligibility criteria for the program.

Rule 22.257, Satisfactory Academic Progress, is amended by aligning rule language with defined terms, making nonsubstantive clarifying edits, and updating subsection (c) with a more specific citation.

Rule 22.258, Discontinuation of Eligibility or Non-Eligibility, is amended to align rule language with defined terms and specify references to the TEOG program via capitalization.

Rule 22.259, Hardship Provisions, is amended to align hardship provisions for the program with other programs in the chapter.

Rule 22.260, Priorities in Grants to Students, is amended to align rule language with defined terms, replace "expected family contribution" with the newer term, "Student Aid Index" (no change in meaning), and specify references to the TEOG program via capitalization.

Rule 22.261, Grant Amounts, is amended by eliminating the unnecessary subsection (a) -- no rule is required to establish the Coordinating Board's statutory spending limit for the program -- restructuring the rule for improved readability by moving current subsection (b)(1) to become the new subsection (b), and clarifying that the reduction in excess charges described by subsection (c)(2) is considered an exemption, rather than a waiver. There is no change to the overall function of the rule.

Rules 22.262, Allocation of Funds - Public Junior Colleges, and 22.264, Allocation of Funds - Public Technical and State Colleges, are amended to align rule language with defined terms and provide greater detail into the existing allocation methodologies for public junior colleges, and public state colleges and technical institutes, respectively. In both rules, subsection (a)(1)(B) is amended with added language regarding the weighting of half-time, three-quarter time, and full-time students in the allocation formula. This weighting already occurs but had not been stated explicitly in the rule text. It has been added for greater transparency. None of the amendments to either rule should be interpreted as changing the allocation methodologies for this program.

Rule 22.265, Disbursement of Funds to Institutions, is amended by adding a citation to a relevant rule in the chapter's General Provisions.

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

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

Dr. Charles Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be improved rule clarity, consistency, and readability. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

Government Growth Impact Statement

- (1) the rules will not create or eliminate a government program;
- (2) implementation of the rules will not require the creation or elimination of employee positions;
- (3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;
- (4) the rules will not require an increase or decrease in fees paid to the agency;
- (5) the rules will not create a new rule;
- (6) the rules will not limit an existing rule;
- (7) the rules will not change the number of individuals subject to the rule; and
- (8) the rules will not affect this state's economy.

Comments on the proposal may be submitted to Dr. Charles Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, P.O. Box 12788, Austin, Texas 78711-2788, or via email at SFAPPolicy@highered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The amendment is proposed under Texas Education Code, Section 56.403, which provides the Coordinating Board with the authority to adopt rules related to the Texas Educational Opportunity Grant program.

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

§22.254. *Definitions.*

In addition to the words and terms defined in §22.1 of this chapter (relating to Definitions), the following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

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

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

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

- (i) an avocational course;
- (ii) a continuing education course that is ineligible for conversion as articulated college credit; and
- (iii) a continuing education course that does not meet the institution's program or instructor accreditation standards.

(2) Certificate Program--For purposes of the Texas Educational Opportunity Grant Program, Level 1 and Level 2 certificates, Occupational Skills Awards, and other credentials of value as defined in §13.472 of this title [chapter] (relating to Definitions). These include programs offered through academic courses or through career and technical education courses, as defined in paragraph (1) of this subsection.

(3) Continuation Grant [Award]--A grant offered [awarded] to a person who has previously received an initial year grant [award].

(4) Entering undergraduate--A student enrolled in the first 45 semester credit hours or their equivalent, excluding hours taken during dual enrollment in high school and courses for which the student received credit through examination.

~~(5) Forecast--The FORECAST function in Microsoft Excel.]~~

~~(5) [(6)] Grant--Funds offered [awarded] to a student through the Texas Educational Opportunity Grant Program.~~

~~(6) [(7)] Initial Year Grant [year award]--The grant offered [award made] in the student's first year in the Program.~~

~~(7) [(8)] Program--The Texas Educational Opportunity Grant Program.~~

#### §22.255. *Eligible Institutions.*

##### (a) Eligibility.

(1) Any public junior college, [as defined in Texas Education Code, §61.003(2)]; public technical institute, [as defined in Texas Education Code, §61.003(7)]; and public state college, as defined in §22.1 of this chapter (relating to Definitions), [as defined in Texas Education Code, §61.003(16)] is eligible to participate in the Program [program].

(2) No participating institution may, on the grounds of race, color, national origin, gender, religion, age, or disability exclude an individual from participation in, or deny the benefits of the Program [program] described in this subchapter.

(3) Each participating institution must follow the Civil Rights Act of 1964, Title VI (Public Law 88-352) in avoiding discrimination in admissions or employment.

##### (b) Approval.

(1) Agreement. Each eligible institution must enter into an agreement with the Coordinating Board, the terms of which shall be prescribed by the Commissioner [or his/her designee], prior to being approved to participate in the Program [program].

(2) Approval Deadline. An institution must indicate an intent to participate in the Program [program] by June 1 and enter into an agreement with the Coordinating Board by August 31 in order for qualified students enrolled in that institution to be eligible to receive grants in the following biennium.

(c) Responsibilities. Participating institutions are required to abide by the General Provisions outlined in subchapter A of this chapter.

#### §22.256. *Eligible Students.*

(a) To receive an initial year grant [award] through the Program, a student must:

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

(2) show financial need, as defined in §22.1 of this chapter;

(3) have applied for [any available] financial aid through the completion of the Federal Application for Federal Student Aid or, if the student is not eligible for federal financial aid, the Texas Application for State Financial Aid [assistance];

(4) be enrolled at a participating institution on at least a half-time basis as an entering undergraduate; [student; and]

(5) be enrolled in an associate degree or certificate program at a participating institution; and[-]

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

(b) To receive a continuation grant [award] through the Program, a student must:

(1) have previously received an initial year grant [award] through this Program [program];

(2) show financial need, as defined in §22.1 of this chapter;

(3) be enrolled on at least a half-time basis;

(4) be enrolled in an associate degree or certificate program at a participating [an eligible] institution; and

(5) make satisfactory academic progress towards an associate degree or certificate program, as defined in §22.257 of this subchapter (relating to Satisfactory Academic Progress).

#### §22.257. *Satisfactory Academic Progress.*

(a) Eligibility for First Continuation Grant [at End of Initial Year Award]. In addition to the requirements in §22.256(b) of this subchapter (relating to Eligible Students), a student must comply with his or her institution's financial aid satisfactory academic progress requirements to receive his or her first continuation grant. [Students who complete their first year receiving a grant in compliance with their institutions' financial aid academic progress requirements are eligible to receive continuation awards in the following year if they meet the other requirements listed in §22.256 of this subchapter (relating to Eligible Students).]

(b) Eligibility for Subsequent [at End of a] Continuation Grants [Award]. Unless [Students shall, unless] granted a hardship waiver [provision] in accordance with §22.259 of this subchapter (relating to Hardship Provisions), as of the end of an academic year in which the student receives a continuation grant, a student must satisfy the following requirements to be eligible for a subsequent continuation grant [award]:

(1) complete at least 75 percent [75%] of the semester credit hours or their equivalent attempted in the student's most recent academic year; and

(2) maintain an overall cumulative grade point average of at least 2.5 on a four-point scale or its equivalent.

(c) A participating institution shall calculate [The calculation of] a student's GPA [is to be completed] in accordance with §22.10 of this chapter (relating to Grade Point Average Calculations for Satisfactory Academic Progress) [Subchapter A of this chapter (relating to General Provisions)].

(d) A participating institution may calculate [The] completion rates [rate calculations may be made] in keeping with its own institutional policies.

#### §22.258. *Discontinuation of Eligibility or Non-Eligibility.*

(a) A student may not receive a grant while concurrently receiving a TEXAS Grant.

(b) A student may not receive a grant after having been granted an associate or baccalaureate degree.

(c) A student's eligibility for the Program [~~program~~] ends once a student has attempted 75 semester credit hours or the equivalent, unless the student is granted a hardship extension in accordance with §22.259 of this subchapter (relating to Hardship Provisions).

(d) A student's eligibility for the Program [~~program~~] ends four years from the start of the semester in which the student received an initial year grant [~~award~~], unless the student is granted a hardship extension in accordance with §22.259 of this subchapter.

(e) A person is not eligible to receive a grant if the person has been convicted of a felony or an offense under Chapter 481, Health and Safety Code (Texas Controlled Substances Act), or under the law of any other jurisdiction involving a controlled substance as defined by Chapter 481, Health and Safety Code, unless the person has met the other applicable eligibility requirements under this subchapter and has:

(1) received a certificate of discharge by the Texas Department of Criminal Justice or a correctional facility or completed a period of probation ordered by a court, and at least two years have elapsed from the date of the receipt or completion; or

(2) been pardoned, had the record of the offense expunged from the person's record, or otherwise been released from the resulting ineligibility to receive a grant.

(f) Other than as described in §22.259 of this subchapter, if a person fails to meet any of the requirements for receiving a continuation grant [~~award~~] as outlined in §22.256 of this subchapter (relating to Eligible Students) after completion of any year, the person may not receive a grant until after completing a semester of at least half-time coursework while not receiving a grant and meeting all the requirements of §22.256 of this subchapter as of the end of that semester.

#### §22.259. *Hardship Provisions.*

(a) In the event of a hardship or for other good cause, the Program Officer at a participating institution may allow an otherwise eligible student to receive a grant: [;]

(1) while maintaining a grade point average below the required level, as defined in §22.257 of this subchapter (relating to Satisfactory Academic Progress);

(2) while maintaining a completion rate below the required level, as defined in §22.257 of this subchapter;

(3) while enrolled less than half time;

(4) while enrolled in semester credit hours in excess of the attempted hour limit, as defined in §22.258(c) of this subchapter (relating to Discontinuation of Eligibility and Non-Eligibility), though the total number of semester credit hours paid for, at least in part, with Program [~~program~~] funding may not exceed 75 or its equivalent; or

(5) while enrolled beyond the time limit restrictions, as defined in §22.258(d) of this subchapter.

(b) Hardship conditions may include, but are not limited to:

(1) documentation [~~a showing~~] of a severe illness or other debilitating condition that may affect the student's academic performance;

(2) documentation [~~an indication~~] that the student is responsible for the care of a sick, injured, or needy person and that the student's provision of care may affect his or her academic performance; [~~or~~]

(3) documentation of the birth of a child or placement of a child with the student for adoption or foster care, that may affect the student's academic performance; or

(4) [(3)] the requirement of fewer than six semester credit hours or their equivalent to complete one's degree or certificate plan.

(c) Documentation of the hardship circumstances approved for a student to receive a grant must be kept in the student's files, and the institution must identify students approved for a grant based on a hardship to the Coordinating Board, so that it may appropriately monitor each student's period of eligibility.

(d) Each institution shall adopt a hardship policy under this section and have the policy available in writing in the financial aid office for public review upon request.

#### §22.260. *Priorities in Grants to Students.*

(a) If funds available [~~appropriations~~] for the Program [~~program~~] are insufficient to allow grants to all eligible students, continuation grants [~~awards~~] will be given priority.

(b) In determining who should receive an initial year grant [~~award~~], an institution shall give priority to those students who have a Student Aid Index [~~an expected family contribution~~] that does not exceed 60 percent of the average statewide amount of tuition and fees for general academic teaching institutions for the relevant academic year.

(c) In determining who should receive an initial year grant [~~award~~], an institution shall give highest priority to students who demonstrate the greatest financial need at the time the grant is made.

#### §22.261. *Grant Amounts.*

[(a) Funding. Funds awarded through this program may not exceed the amount of appropriations, grants, and other funds that are available for this use.]

(a) [(b)] Grant Amounts.

[(1) The amount of a grant may not be reduced by any gift aid for which the person receiving the grant is eligible, unless the total amount of a person's grant plus any gift aid received exceeds the student's cost of attendance. However, no student's grant shall be greater than the amount of the student's financial need.]

(1) [(2)] The Coordinating Board shall determine and announce the maximum grant amount in a given state fiscal year by January 31 of the prior fiscal year. The calculation of the maximum grant amount for a semester will be based on the average statewide amount of tuition and required fees at eligible institutions that a resident student enrolled full-time in an associate degree or certificate program measured in semester credit hours would be charged for that semester (Texas Education Code, §56.407).

(2) [(3)] In the Coordinating Board's determination of [~~determining~~] the maximum grant amount, the average amount of tuition and required fees is determined by institution type (public junior colleges, public state colleges, and public technical institutes), utilizing the most recent Integrated Fiscal Reporting System reports to project the value.

(b) The amount of a grant offered by the institution may not be reduced by any gift aid for which the person receiving the grant is eligible, unless the total amount of a person's grant plus any gift aid received exceeds the student's cost of attendance. However, no student's grant shall be greater than the amount of the student's financial need.

(c) An approved institution may not charge a person receiving a grant through that institution an amount of tuition and required fees

in excess of the grant received by the person. Nor may it deny admission to or enrollment in the institution based on a person's eligibility to receive or actual receipt of a grant. If an institution's tuition and fee charges exceed the grant, it may address the shortfall in one of two ways:

(1) ~~[it may] use other available sources of financial aid to cover any difference in the amount of the grant and the student's actual amount of tuition and required fees at the institution, provided that the other available sources of financial aid do not include a loan; or[.]~~

~~[(A) for grants offered for semesters prior to the 2024 fall semester, the other available sources of financial aid do not include a loan or Pell Grant; and]~~

~~[(B) for grants offered beginning with the 2024 fall semester, the other available sources of financial aid do not include a loan; or]~~

(2) ~~exempt [it may waive] the excess charges for the student. However, if an exemption [a waiver] is used, the institution may not report the recipient's tuition and fees in a way that would increase the general revenue appropriations to the institution.~~

(d) Grant calculations are to be completed in accordance with subchapter A [Subchapter A] of this chapter (relating to General Provisions).

*§22.262. Allocation of Funds - Public Junior Colleges.*

(a) Allocations are to be determined on an annual basis as follows:

(1) The allocation base for each eligible institution will be the number of students it reported in the most recent certified Financial Aid Database submission who met the following criteria:

(A) were classified as [Texas] residents of Texas as defined in §22.1 of this chapter (relating to Definitions);[.]

(B) were enrolled as undergraduates in an associate degree or certificate program half-time, three-quarter time or full-time, with full-time students weighted as 1, three-quarter time students weighted as 0.75, and half-time students weighted as 0.50, as reported in the Financial Aid Database submission; and

(C) have a 9-month Student Aid Index [Expected Family Contribution], calculated using federal methodology, less than or equal to the Federal Pell Grant eligibility Student Aid Index [Expected Family Contribution] cap for the year reported in the Financial Aid Database submission.

(2) Each institution's percent of the available funds will equal its percent of the state-wide need as determined by multiplying each institution's enrollments by the respective grant [award] maximums of students who meet the criteria in subsection (a)(1) of this section.

(3) Allocations for both years of the state appropriations' biennium will be completed at the same time. The three most recent certified Financial Aid Database submissions will be utilized to forecast the data utilized in the calculation of the allocation for the second year of the biennium. Institutions will receive notification of their allocations for both years of the biennium at the same time.

(4) Allocation calculations will be shared with all participating institutions for comment and verification prior to final posting and the institutions will be given ten [10] working days, beginning the day of the notice's distribution and excluding State holidays, to confirm that the allocation report accurately reflects the data they submitted or to advise the Coordinating Board of any inaccuracies.

(b) Reductions in Funding.

(1) If annual funding for the Program [program] is reduced after the start of a fiscal year, the Coordinating Board may take steps to help distribute the impact of reduced funding across all participating institutions by an across-the-board percentage decrease in all institutions' allocations.

(2) If annual funding is reduced prior to the start of a fiscal year, the Coordinating Board may recalculate the allocations according to the allocation methodology outlined in this rule for the affected fiscal year based on available dollars.

*§22.264. Allocation of Funds - Public Technical and State Colleges.*

(a) Allocations are to be determined on an annual basis as follows:

(1) The allocation base for each eligible institution will be the number of students it reported in the most recent certified Financial Aid Database submission who met the following criteria:

(A) were classified as [Texas] residents of Texas, as defined in §22.1 of this chapter (relating to Definitions);

(B) were enrolled as undergraduates in an associate degree or certificate program half-time, three-quarter time, or full-time, with full-time students weighted as 1, three-quarter time students weighted as 0.75, and half-time students weighted as 0.50, as reported in the Financial Aid Database submission; and

(C) have a 9-month Student Aid Index [Expected Family Contribution], calculated using federal methodology, less than or equal to the Federal Pell Grant eligibility Student Aid Index [Expected Family Contribution] cap for the year reported in the Financial Aid Database submission.

(2) Each institution's percent of the available funds will equal its percent of the state-wide need as determined by multiplying each institution's enrollments by the respective grant [award] maximums of students who meet the criteria in [subsection] paragraph (1) of this subsection.

(3) Allocations for both years of the state appropriations' biennium will be completed at the same time. The three most recent certified Financial Aid Database submissions will be utilized to forecast the data utilized in the calculation of the allocation for the second year of the biennium. Institutions will receive notification of their allocations for both years of the biennium at the same time.

(4) Verification of Data. Allocation calculations will be shared with all participating institutions for comment and verification prior to final posting, and the institutions will be given 10 working days, beginning the day of the notice's distribution and excluding State holidays, to confirm that the allocation report accurately reflects the data they submitted or to advise the Coordinating Board of any inaccuracies.

(b) Reductions in Funding.

(1) If annual funding for the Program [program] is reduced after the start of a fiscal year, the Coordinating Board may take steps to help distribute the impact of reduced funding across all participating institutions by an across-the-board percentage decrease in all institutions' allocations.

(2) If annual funding is reduced prior to the start of a fiscal year, the Coordinating Board may recalculate the allocations according to the allocation methodology outlined in this rule for the affected fiscal year based on available dollars.

*§22.265. Disbursement of Funds to Institutions.*

As requested by institutions throughout the academic year, the Coordinating Board shall forward to each participating institution a portion of its allocation of funds for timely disbursement to students in accordance with §22.2 of this chapter (relating to Timely Disbursement of Funds). Institutions will have until the close of business on August 1, or the first working day thereafter if it falls on a weekend or holiday, to encumber program funds from their allocation. After that date, institutions lose claim to any funds in the current fiscal year not yet drawn down from the Coordinating Board for timely disbursement to students. Funds released in this manner in the first year of the biennium become available to the institution for use in the second year of the biennium. Funds released in this manner in the second year of the biennium become available to the Coordinating Board for utilization in grant processing. Should these unspent funds result in additional funding available for the next biennium's program, revised allocations, calculated according to the allocation methodology outlined in this rule, will be issued to participating institutions during the fall semester.

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

Filed with the Office of the Secretary of State on January 23, 2025.

TRD-202500218

Nichole Bunker-Henderson

General Counsel

Texas Higher Education Coordinating Board

Earliest possible date of adoption: March 9, 2025

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



## TITLE 22. EXAMINING BOARDS

### PART 6. TEXAS BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS

#### CHAPTER 133. LICENSING FOR ENGINEERS

##### SUBCHAPTER C. PROFESSIONAL ENGINEER LICENSE APPLICATION REQUIREMENTS

###### 22 TAC §133.27

The Texas Board of Professional Engineers and Land Surveyors (Board) proposes an amendment to 22 Texas Administrative Code, Chapter 133, regarding Licensing for Engineers, specifically §133.27, Application for Temporary License for Engineers Currently Licensed Outside the United States.

###### BACKGROUND AND SUMMARY

Texas Occupations Code §1001.311 authorizes the Board to license an applicant that is not a resident of the State of Texas if the applicant holds a license issued by another jurisdiction and has met substantially equivalent licensure requirements to those in Texas. The Board is proposing rules to clearly set the procedure and requirements for licensure for applicants from other US states and territories, as well as international applicants licensed in a country that has a licensure agreement with Texas.

###### SECTION-BY-SECTION SUMMARY

The proposed rules amend §133.27 by relocating language from a recent amendment to rule §133.11.

###### FISCAL IMPACT ON STATE AND LOCAL GOVERNMENT

Mr. Lance Kinney, Ph.D., P.E., Executive Director, has determined that for each year of the first five years the proposed rules are in effect, there are no estimated additional costs or reductions in costs to state or local government as a result of enforcing or administering the proposed rules.

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

###### LOCAL EMPLOYMENT IMPACT STATEMENT

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

###### PUBLIC BENEFITS

Mr. Kinney has determined that for each year of the first five-year period the proposed rules are in effect, the public benefit will be allowing qualified applicants with licenses in another jurisdiction to have a streamlined reciprocal licensure process.

###### PROBABLE ECONOMIC COSTS TO PERSONS REQUIRED TO COMPLY WITH PROPOSAL

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

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

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

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

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

###### GOVERNMENT GROWTH IMPACT STATEMENT

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

1. The proposed rules do not create or eliminate a government program.
2. Implementation of the proposed rules do not require the creation of new employee positions or the elimination of existing employee positions.

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

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

5. The proposed rules do not create a new regulation.

6. The proposed rules do not expand, limit, or repeal an existing regulation.

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

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

#### TAKINGS IMPACT ASSESSMENT

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

#### ENVIRONMENTAL RULE ANALYSIS

The Board has determined that the proposed rules are not brought with the specific intent to protect the environment or reduce risks to human health from environmental exposure; thus, the Board asserts the proposed rules are not a "major environmental rule," as defined by Government Code §2001.0225. As a result, the Board asserts preparation of an environmental impact analysis, as provided by §2001.0225, is not required.

#### PUBLIC COMMENTS

Any comments or request for a public hearing may be submitted, no later than 30 days after the publication of this notice, to Lance Kinney, Ph.D., P.E., Executive Director, Texas Board of Professional Engineers, by email to [rules@pels.texas.gov](mailto:rules@pels.texas.gov), sent by mail to 1917 S. Interstate 35, Austin, Texas 78741, or faxed to his attention at (512) 440-0417.

#### STATUTORY AUTHORITY

The proposed rules are proposed pursuant to Texas Occupations Code §§1001.201 and 1001.202, which authorize the Board to regulate engineering and land surveying and make and enforce all rules and regulations and bylaws consistent with the Act as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practices of engineering and land surveying in this state. In addition, §1001.311 allow for the licensure of nonresidents.

*§133.27. Application for Temporary License for Engineers Currently Licensed Outside the United States.*

(a) Pursuant to §1001.311 of the Act, a temporary license may be issued under this section for applicants who:

(1) are citizens of the Commonwealth of Australia, Canada, the Republic of Korea or the United Mexican States;

(2) are seeking to perform engineering work in Texas for three years or less;

(3) are currently licensed or registered in good standing with Engineers Australia, at least one of the jurisdictions of Canada, the Korean Professional Engineers Association or the United Mexican States; and

(4) meet the following experience requirements:

(A) Applicant currently registered in Australia, Canada or the Republic of Korea shall have at least seven years of creditable engineering experience, three of which must be practicing as a registered or chartered engineer with Engineers Australia, the Korean Professional Engineers Association or Engineers Canada and one of which must be working with or show familiarity with U.S. codes, as evaluated by the board under §133.43 of this chapter (relating to Experience Evaluation).

(B) Applicant currently licensed in United Mexican States shall:

(i) meet the educational requirements of §1001.302(a)(1)(A) of the Act and have 12 or more years of creditable engineering experience, as evaluated by the board under §133.43 of this chapter; or

(ii) meet the educational requirements of §1001.302(a)(1)(B) of the Act and have 16 or more years of creditable engineering experience, as evaluated by the board under §133.43 of this chapter.

(b) The applicant applying for a temporary license from Australia, Canada, the Republic of Korea or the United Mexican States shall submit:

(1) an application in a format prescribed by the board;

(2) proof of educational credentials pursuant to §133.33 or §133.35 of this chapter (relating to Proof of Educational Qualifications);

(3) a supplementary experience record as required under §133.41(1) - (4) of this chapter (relating to Supplementary Experience Record) or a verified curriculum vitae and continuing professional development record;

(4) at least three reference statements as required under §133.51 and §133.53 of this chapter (relating to Reference Providers and Reference Statements);

(5) passing score of TOEFL as described in §133.21(c) of this chapter (relating to Application for Standard License);

(6) information regarding judgments of convictions, deferred judgments or pre-trial diversions, for a misdemeanor or felony provided in a form prescribed by the board, together with copies of any court orders or other legal documentation concerning the criminal charges and the resolution of those charges;

(7) documentation of submittal of fingerprints for criminal history record check as required by §1001.272 of the Act;

(8) a statement describing any engineering practice violations, if any, together with documentation from the jurisdictional authority describing the resolution of those charges;

(9) submit a completed Texas Engineering Professional Conduct and Ethics examination;

(10) pay the application fee established by the board; and

(11) a verification of a license in good standing from one of the jurisdictions listed in subsection (a)(3) of this section.

(c) Once an application under this section is accepted for review, the board will follow the procedures in §133.83 of this chapter (relating to Processing, Review, and Evaluation of Applications) to review and approve or deny the application. The board may request additional information or require additional documentation to ensure eligibility pursuant to §1001.302 of the Act, as needed. Pursuant to

§1001.453 of the Act, the board may review the license holder's status and take action if the license was obtained by fraud or error or the license holder may pose a threat to the public's health, safety, or welfare.

(d) A temporary license issued under this section may only be renewed twice for a total maximum duration of three years.

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

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

TRD-202500177

Lance Kinney

Executive Director

Texas Board of Professional Engineers and Land Surveyors

Earliest possible date of adoption: March 9, 2025

For further information, please call: (512) 440-7723



## TITLE 26. HEALTH AND HUMAN SERVICES

### PART 1. HEALTH AND HUMAN SERVICES COMMISSION

#### CHAPTER 357. INDEPENDENT LIVING SERVICES PROGRAM

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC) proposes amendments to §357.101, concerning Purpose; §357.103, concerning Legal Authority; §357.105, concerning Definitions; §357.201, concerning Allocation of Funds; §357.305, concerning Eligibility; §357.307, concerning Independent Living Plan; §357.309, concerning Waiting List; §357.311, concerning Scope of Services; §357.401, concerning Consumer Participation System; §357.403, concerning Fee Schedule Amount; §357.405, concerning Insurance Payments; §357.501, concerning Rights of Consumers; §357.503, concerning Complaint Process; §357.601, concerning Administering Agency's Role in Providing Technical Assistance; and §357.701, concerning Expectations of Administering Agency's Employees; and new §357.107, concerning Service Provider Standards and Contracts.

#### BACKGROUND AND PURPOSE

The purpose of the proposal is to update references in rule to reflect changes made due to the implementation of Senate Bill (S.B.) 200, 84th Legislature, Regular Session, 2015, which required the dissolution of the Department of Assistive and Rehabilitative Services (DARS). Independent Living Services (ILS) transferred to HHSC from the legacy DARS as part of the Health and Human Services Transformation. The program was subsequently outsourced to the Centers for Independent Living (CIL) on September 1, 2016, as required by House Bill (H.B.) 2463, 84th Legislature, Regular Session, 2015. HHSC continues to oversee ILS, except for Independent Living Services for Older Individuals who are Blind, which transferred to the Texas Workforce Commission as required by S.B. 208, 84th Legislature, Regular Session, 2015.

The proposal updates references from DARS to HHSC, outdated terms such as "individual" or "consumer," and references to "per-

son" or "people" to align with the agency's person-centered language policy. A new rule requires service providers to adhere to the service provider standards and clarifies that they are responsible for any subcontracted services. The proposal changes eligibility criteria to require a person to reside in Texas, instead of merely being present in Texas.

#### SECTION-BY-SECTION SUMMARY

The proposed amendment to the Chapter 357 title adds the word program to distinguish it from other programs or groups which may offer independent living services.

The proposed amendment to §357.101 makes non-substantive grammatical changes to improve wording.

The proposed amendment to §357.103 updates references to the United States Code (USC) and the Code of Federal Regulations (CFR). 29 USC 711(c) is removed. 34 CFR Parts 364, 365, and 366 have been removed and replaced by 45 CFR, Part 1329. The paragraphs are rearranged for easier readability.

The proposed amendment to §357.105 updates person-centered language, updates references to DARS, removes definitions that are no longer applicable, and adds new definitions for "consumer participation agreement," "HHSC," "Independent Living Services Program," "person," "representative," "support services," "vendor," and "youth with a disability."

Proposed new §357.107 requires a service provider to adhere to the service provider standards and clarifies that the service provider is responsible for any subcontracted services.

The proposed amendment to §357.201 updates references to DARS and makes other non-substantive wording changes.

The proposed amendment to §357.305 updates the citations from the previous location in Title 40, Texas Administrative Code, §104.105, changes the eligibility requirements from being present in Texas to residing in Texas, removes the statement that anyone determined eligible by DARS remains eligible with HHSC, and updates language regarding protections afforded to applicants when eligibility requirements are applied.

The proposed amendment to §357.307 updates text to person-centered language; corrects outdated citations; and includes other community, state, and federal programs that are necessary to the coordination of services.

The proposed amendment to §357.309 updates text to person-centered language and updates a citation.

The proposed amendment to §357.311 removes personal assistance and supported living as independent living services, updates text to person-centered language, and corrects outdated citations.

The proposed amendment to §357.401 adds language prohibiting the collection of consumer participation for support services, updates text to person-centered language, updates references to DARS, and corrects outdated citations.

The proposed amendment to §357.403 updates references to DARS, updates text to person-centered language, and makes non-substantive wording changes.

The proposed amendment to §357.405 simplifies the insurance wording, adds person-centered language, and updates references to DARS.

The proposed amendment to §357.501 changes the title from "Rights of Consumers" to "Personal Rights," uses person-cen-



tered language, updates language prohibiting discrimination by HHSC, and updates references to DARS.

The proposed amendment to §357.503 updates the HHSC Ombudsman's office online contact information, updates references to DARS, and uses person-centered language.

The proposed amendment to §357.601 changes the title from "Administering Agency's Role in Providing Technical Assistance" to "Technical Assistance Provided by HHSC" and updates references to DARS.

The proposed amendment to §357.701 changes the title from "Expectations of Administering Agency's Employees" to "Referrals Received by HHSC," uses person-centered language, updates references to DARS, and updates how a person can find contact information for the Independent Living Services provider.

#### FISCAL NOTE

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

#### GOVERNMENT GROWTH IMPACT STATEMENT

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

- (1) the proposed rules will not create or eliminate a government program;
- (2) implementation of the proposed rules will not affect the number of HHSC employee positions;
- (3) implementation of the proposed rules will result in no assumed change in future legislative appropriations;
- (4) the proposed rules will not affect fees paid to HHSC;
- (5) the proposed rules will create new regulations;
- (6) the proposed rules will limit existing regulations;
- (7) the proposed rules will not change the number of individuals subject to the rules; and
- (8) the proposed rules will not affect the state's economy.

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

Trey Wood has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities. The rules only affect the Independent Living Services Program, and S.B. 200 requires that those services be provided exclusively by the Centers for Independent Living. As such, the services could not be provided by small businesses. The proposed amendments do not impact the scope of the program to infringe on any services currently provided by small businesses.

#### LOCAL EMPLOYMENT IMPACT

The proposed rules will not affect a local economy.

#### COSTS TO REGULATED PERSONS

Texas Government Code §2001.0045 does not apply to these rules because the rules do not impose a cost on regulated persons.

#### PUBLIC BENEFIT AND COSTS

Haley Turner, Deputy Executive Commissioner, Community Services, has determined that for each year of the first five years the rules are in effect, the public benefit will be clarity in the community regarding the administering agency. Removing DARS from the rules will help shift public perception to HHSC. The shift in eligibility criteria from a person being present in Texas to residing in Texas will make it clearer for the Centers for Independent Living and those served that Centers for Independent Living staff will need to verify residency, similar to other government programs.

Trey Wood has also determined that for the first five years the rules are in effect, there are no anticipated economic costs to persons who are required to comply with the proposed rules because the changes are procedural in nature and do not come with any additional costs for those required to comply.

#### TAKINGS IMPACT ASSESSMENT

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

#### PUBLIC COMMENT

Written comments on the proposal may be submitted to Rules Coordination Office, P.O. Box 13247, Mail Code 4102, Austin, Texas 78711-3247, or street address 4601 West Guadalupe Street, Austin, Texas 78751; or emailed to [HHRulesCoordinationOffice@hhs.texas.gov](mailto:HHRulesCoordinationOffice@hhs.texas.gov).

To be considered, comments must be submitted no later than 31 days after the date of this issue of the *Texas Register*. Comments must be (1) postmarked or shipped before the last day of the comment period; (2) hand-delivered before 5:00 p.m. on the last working day of the comment period; or (3) emailed before midnight on the last day of the comment period. If the last day to submit comments falls on a holiday, comments must be postmarked, shipped, or emailed before midnight on the following business day to be accepted. When emailing comments, please indicate "Comments on Proposed Rule 24R075" in the subject line.

## SUBCHAPTER A. GENERAL RULES

### 26 TAC §§357.101, 357.103, 357.105, 357.107

#### STATUTORY AUTHORITY

The amendments and new section are authorized by Texas Government Code §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; and Texas Human Resources Code §117.080(e), which authorizes the Executive Commissioner of HHSC to adopt rules necessary to implement that section, including requirements applicable to CILs providing independent living services under the program.

The amendments and new section implement Texas Government Code §531.0055 and Texas Human Resources Code §117.080.

#### §357.101. Purpose.

The [This] program provides services that promote to the fullest extent the integration and inclusion of a person [~~individuals~~] with significant disabilities into society.

#### §357.103. Legal Authority.

[(a)] The legal authority for the program is published in the following federal [~~regulations~~] and state law [~~statutes~~]:

- (1) 29 United States Code (U.S.C.) §§796a-796f-6;  
 [(1) 34 Code of Federal Regulations, Parts 364, 365 and 366;]  
 (2) 45 Code of Federal Regulations, Part 1329; and  
 [(2) 29 U.S.C. §§711(e) and 796a-796f-6; and]  
 (3) Texas Human Resources Code[, §117.079 and] §117.080.

[(b) In case of any conflict, federal regulations prevail.]

§357.105. *Definitions.*

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

(1) Ability to pay--The determination that a person [the consumer] is able to contribute financially toward the cost of independent living services.

(2) Accessible format--An alternative way of providing to a person [people] with disabilities the same information, functionality, and services provided to a person without a disability [people without disabilities]. Examples of accessible formats include braille, accessible digital content [ASCH text], large print, American Sign Language, and recorded audio.

(3) Act--The Rehabilitation Act of 1973, as amended.

(4) Adjusted income--The dollar amount that is equal to a household's annual gross income, minus allowable deductions.

(5) Allotment--Funds distributed to a service provider by HHSC [DARS] to provide [provider] services under this chapter.

(6) Allowable deductions--Certain unreimbursed household expenses that are subtracted from a household's annual gross income to calculate the adjusted income.

[(7) Attendant care--A personal assistance service provided to help an individual with significant disabilities perform essential personal tasks, such as bathing, communicating, cooking, dressing, eating, homemaking, toileting, and transportation.]

(7) [(8)] Blind--A condition of having no more than 20/200 visual acuity in the better eye with correcting lenses or having visual acuity greater than 20/200 but with a field of vision in which the widest diameter subtends an angle no greater than 20 degrees.

[(9) Center for Independent Living (CIL)--A private non-profit agency for individuals with significant disabilities (regardless of age or income) that is not residential, is consumer-controlled, is community-based, takes a cross-disability approach, and:]

[(A) is designed and operated within a local community by individuals with disabilities; and]

[(B) provides an array of independent living services, including, at a minimum, independent living core services as they are defined in 29 U.S.C. §705(17).]

(8) [(10)] CAP--Client Assistance Program. [(CAP)]--A federally funded initiative [program] that provides information, assistance, and advocacy for people with disabilities who are seeking or receiving services from CAPs [programs] funded under the Act. The CAP [program] is implemented by Disability Rights Texas (DRTx), a legal services organization whose mission is to protect the human, service, and legal rights of persons with disabilities in Texas.

(9) CIL--Center for Independent Living. A private non-profit agency for people with significant disabilities (regardless of age

or income) that is not residential, is consumer-controlled, is community-based, takes a cross-disability approach; and

[(A) is designed and operated within a local community by persons with disabilities; and]

[(B) provides an array of independent living services, including, at a minimum, independent living core services as they are defined in 29 United States Code (U.S.C.) §705(17).]

(10) [(11)] Comparable services or benefits--Services and benefits that are provided or paid for, in whole or part, by other federal, state, or local public programs; by health insurance, third-party payers, or other private sources; or by the employee benefits that are available to a person [the consumer] and are commensurate in quality and nature to the services that the person [consumer] would otherwise receive from a service provider [providers].

[(12) Consumer--An individual who has applied for or is receiving the independent living services that are referred to under this chapter.]

(11) [(13)] Consumer participation--The financial contribution that a person [consumer] may be required to pay for receiving independent living services.

(12) Consumer participation agreement--A document signed by a person and a CIL that outlines the percentage of adjusted income a person is required to contribute toward the cost of services.

(13) [(14)] Consumer participation system--The system for determining and collecting the financial contribution that a person [consumer] may be required to pay for receiving independent living services.

[(15) Consumer representative--Any person chosen by a consumer, including the consumer's parent, guardian, other family member, or advocate. If a court has appointed a guardian or representative, that person is the consumer's representative. Unless documentation is provided showing otherwise, a parent or court-appointed guardian is presumed to be the consumer representative for a minor who is:]

[(A) younger than 18 years old; and]

[(B) not emancipated; or]

[(C) married.]

[(16) DARS--The Department of Assistive and Rehabilitative Services.]

(14) [(17)] Federal poverty level guidelines--The poverty guidelines updated periodically in the Federal Register by the United States Department of Health and Human Services under the authority of 42 U.S.C. [USC] §9902(2).

(15) [(18)] Fee--A percentage of the full cost for a purchased service that a person [consumer] pays. The percentage is based on the HHSC [DARS] fee schedule and the fee does not exceed the maximum amount prescribed by HHSC.

(16) HHSC--The Texas Health and Human Services Commission.

(17) [(19)] Independent living plan--A written plan in which a person [the consumer] and service provider have collaboratively identified the services that are needed to achieve the person's [consumer's] goal of living independently.

(18) Independent Living Services Program--The group authorized to oversee the services outlined in 29 U.S.C. §705(17) and

(18) In Texas, that authority rests with HHSC. May also be referred to as "the program."

(19) [(20)] Nonprofit--An agency, organization, or institution that is owned and operated by one or more corporations or associations whose net earnings do not and cannot lawfully benefit a private shareholder or entity.

(20) Person--Anyone who has requested, applied for, or is receiving services through the Independent Living Services Program.

(21) Private--An agency, organization, or institution that is not under federal or public supervision or control.

(22) Representative--Anyone chosen by a person served in the program, including the person's parent, guardian, other family member, or advocate. If a court has appointed a guardian or representative, that person is the representative. Unless documentation is provided showing otherwise, a parent or court-appointed guardian is presumed to be the representative for a person who is under 18 years of age and is not emancipated or married.

(23) [(22)] Service provider--A CIL [enter for independent living], nonprofit organization, organization, or other person who contracts with HHSC [contracted or subcontracted] to provide independent living services.

(24) [(23)] Severe visual impairment--A condition of having a visual acuity with best correction of 20/70 or less in the better eye, a visual field of 30 degrees or less in the better eye, or having a combination of both.

(25) [(24)] Significant disability--A severe physical, mental, cognitive, or sensory impairment that substantially limits a person's [an individual's] ability to function independently in the family or community.

(26) [(25)] Sliding fee scale--The fee scale HHSC [DARS] uses to determine the maximum financial contribution that a person [consumer] may be required to pay for receiving independent living services. The scale is based on the federal poverty level guidelines.

(27) Support services--Accommodations provided to a person to assist the person at an appointment with a service provider or vendor. Examples include translators, interpreters, braille, large print, and transportation.

(28) [(26)] Transition services--Services that:

(A) facilitate the transition of a person [individuals] with a significant disability [disabilities] from nursing homes and other institutions to home and community-based residences, with the requisite supports and services;

(B) provide assistance to a person [individuals] with a significant disability [disabilities] who is [are] at risk of entering an institution [institutions] so that the person [individuals] may remain in the community; and

(C) facilitate the transition of youth [who are individuals] with significant disabilities, who were eligible for individualized education programs under section 614(d) of the Individuals with Disabilities Education Act, 20 U.S.C. §1414(d) [(20 U.S.C. §1414(d))], and [who] have completed [their] secondary education or have otherwise left school[,] to postsecondary life.

(29) Vendor--A person or organization subcontracted by a service provider to provide independent living services.

(30) [(27)] Waived independent living plan--A written plan in which the service provider identifies on the behalf of the person [consumer] the services that are needed to achieve the person's

[consumer's] goal of living independently. The service provider writes the plan because the person [consumer] has signed a waiver giving up the person's [consumer's] right to participate in the development of such a written plan.

(31) Youth with a disability--A person with a disability who is at least 14 years of age but younger than 24 years of age.

#### §357.107. Service Provider Standards and Contract Requirements.

(a) A service provider must adhere to the service provider's contracts and either the Independent Living Services Standards for Providers or the Independent Living Base/Operational Grant Standards for Service Providers, depending on the type of contract.

(b) A service provider must ensure the quality of any services subcontracted to a vendor.

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

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Karen Ray

Chief Counsel

Health and Human Services Commission

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## SUBCHAPTER B. ALLOCATION OF FUNDS

### 26 TAC §357.201

#### STATUTORY AUTHORITY

The amendment is authorized by Texas Government Code §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; and Texas Human Resources Code §117.080(e), which authorizes the Executive Commissioner of HHSC to adopt rules necessary to implement that section, including requirements applicable to CILs providing independent living services under the program.

The amendment implements Texas Government Code §531.0055 and Texas Human Resources Code §117.080.

#### §357.201. Allocation of Funds.

(a) HHSC [DARS] allocates to each service provider the funds needed to carry out the rules in this chapter. HHSC [DARS] may consider the following when determining the amount allotted to each service provider:

- (1) service area;
- (2) population of the area served; and
- (3) history of service delivery.

(b) Each service provider must administer the [The] funds [are administered by the designated service provider] in accordance with the rules in this chapter.

(c) When HHSC [DARS] determines that a service provider will not spend all of the funds allotted for a fiscal year to carry out the rules in this chapter, HHSC [DARS] may allot the projected unused portion to other service providers to provide the covered services in

this chapter. The extra allotment is considered an increase in the other service providers' allotments for that fiscal year.

(d) A [The] service provider ensures comparable services or benefits are exhausted before using funds allocated under this chapter.

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

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Karen Ray

Chief Counsel

Health and Human Services Commission

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## SUBCHAPTER C. INDEPENDENT LIVING SERVICES

### 26 TAC §§357.305, 357.307, 357.309, 357.311

#### STATUTORY AUTHORITY

The amendments are authorized by Texas Government Code §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; and Texas Human Resources Code §117.080(e), which authorizes the Executive Commissioner of HHSC to adopt rules necessary to implement that section, including requirements applicable to CILs providing independent living services under the program.

The amendments implement Texas Government Code §531.0055 and Texas Human Resources Code §117.080.

#### §357.305. Eligibility.

(a) To be eligible for independent living services, a person [consumer] must:

(1) have a significant disability as defined in §357.105 [§104.105(24)] of this chapter (relating to Definitions); and

(2) reside [be present] in Texas.

(b) A service provider determines eligibility [Eligibility is determined by the service provider,] based on the documented diagnosis of a licensed practitioner.

(c) [Under Texas Government Code §531.02002, §531.02014, and Texas Labor Code §351.002, consumers who are determined to be eligible for independent living services on or before August 31, 2016, remain eligible on September 1, 2016, and are considered grandfathered under the former DARS independent living program and do not need to reapply for independent living services to the respective receiving agency on September 1, 2016.]

(d) [(d)] Eligibility requirements are applied without regard to a person's [age, color, creed, gender, national origin,] race, religion, color, national origin, disability, age, sex, or in retaliation for prior civil rights activity [religion, or length of time present in Texas].

(e) [(e)] After a service provider documents a person [Once a consumer] is [determined to be] eligible for services, the service provider:

(1) notifies the person [consumer] or the person's [the consumer's] representative in writing about the person's [consumer's] fee [for service], as described in §357.401 [§104.401] of this chapter (relating to Consumer Participation System); and

(2) verifies all potential comparable services or [the] benefits that [of all consumers who] may be covered for independent living services [by comparable services or benefits], as provided under this chapter; and

(3) maintains all related documentation.

(f) [(f)] If a service provider determines that a person [consumer] is ineligible [not eligible] based on the criteria described [explained] in this section, the service provider must document [documents] the determination of ineligibility and provide HHSC [provides DARS] with a copy that is signed and dated by the service provider's executive director or designee.

(g) A [The] service provider may determine a person [consumer] to be ineligible for independent living services only after consultation with the person or the person's representative [consumer] or after providing a clear opportunity for consultation.

(h) A [The] service provider notifies a person [the consumer] in writing of the action taken and informs the person or the person's representative [the consumer] about the person's [the consumer's] rights and the means by which the person [the consumer] may appeal the action taken or file a complaint.

(i) A [The] service provider refers the person [consumer] to other agencies and facilities, if appropriate, including [referring the consumer] to the Texas Workforce Commission's [State's] vocational rehabilitation program.

(j) If a service provider determines that a person [consumer] is ineligible for independent living services, the service provider reviews the person's [the consumer's] status again within 12 months of the determination and whenever the service provider determines that the person's [consumer's] status has materially changed.

(k) A service provider does not conduct a [A] review of an ineligibility determination [need not be conducted] if:

(A) the person refuses one; [consumer has refused one,]

(B) the person [the consumer is] no longer resides [present] in Texas; or

(C) the person's [the consumer's] whereabouts are unknown.

#### §357.307. Independent Living Plan.

(a) General.

(1) Unless a person [the consumer who will receive independent living services under this chapter] signs a waiver in accordance with paragraph (2) of this subsection, a [the] service provider works with the person or the person's representative [consumer] to develop and periodically review an independent living plan in accordance with this section.

(2) If a person or the person's representative [the consumer] knowingly and voluntarily signs a waiver stating that the person or the person's representative waives the right to participate [consumer's participation] in developing an independent living plan [is unnecessary], a [the] service provider develops a waived independent living plan on the person's behalf.

(3) A [The] service provider must provide [provides] each independent living service in accordance with the independent living plan or waived independent living plan.

(b) Initiation and development of an independent living plan or a waived independent living plan.

(1) A service provider develops a person's [consumer's] independent living plan or waived independent living plan [is created] after the person's [the consumer's] eligibility is documented according to §357.305 [§104.305] of this subchapter [chapter] (relating to Eligibility). The plan explains the goals or objectives established and the services to be provided. The plan [It] indicates the anticipated duration of the service plan and the duration of each [component] service.

[(2) Subject to subsection (a)(2) of this section, the independent living plan is developed by the service provider and the consumer or the consumer's representative.]

(2) [(3)] A service provider provides a [A] copy of the independent living plan or waived independent living plan and any amendments [is provided] in an accessible format to the person [consumer] or the person's [the consumer's] representative.

(c) Review.

(1) An [The] independent living plan or waived independent living plan is reviewed as often as necessary but at least annually to determine whether to continue, modify, or discontinue services or refer the person [consumer] to a vocational rehabilitation program or other [assistance] program.

(2) A person [The consumer] reviews the independent living plan and, if necessary, revises it and agrees by signature to its terms.

(d) Coordinating services. A person's [The] independent living plan or waived independent living plan must be coordinated by the service provider, to the extent possible, with any of the following programs [for the consumer]:

(1) a [A] vocational rehabilitation program;

(2) a [A] habilitation program, prepared under the Developmental Disabilities Assistance and Bill of Rights Act of 2000; [and]

(3) an [An] education program, prepared under Part [part] B of the Individuals with Disabilities Education Act; and[-]

(4) other community, state, or federal programs that align with the person's independent living goals.

(e) Termination of services. If a [the] service provider intends to terminate services to a person [consumer], the service provider documents the reason on the independent living plan or waived independent living plan and follows the procedures described [explained] in §357.305(e)(2) - (5) [§104.305(f)(2) - (5)] of this subchapter [chapter].

§357.309. *Waiting List.*

(a) Independent living services are provided when funding is available.

(b) A person [consumer] is placed on a waiting list by a [the] service provider when:

(1) the service provider determines the person [consumer] meets the eligibility requirements described [explained] in §357.305 [§104.305] of this subchapter [chapter] (relating to Eligibility);

(2) the person [consumer] has an [a signed] independent living plan or a waived [waiver stating that an] independent living plan [is unnecessary]; and

(3) there is no funding for a service on the independent living plan or the waived independent living plan that must be purchased.

(c) A service provider must review the service provider's [The] waiting list [is reviewed] every six months [by the service provider]

to determine whether a person is [consumers are] still eligible for and interested in services.

(d) A person is [Consumers are] removed from a service provider's [the] waiting list when:

(1) funding becomes available;[-]

(2) the person [consumer] is no longer eligible;[-] or

(3) the person [consumer] is no longer interested in receiving services.

§357.311. *Scope of Services.*

(a) All services listed in subsection (d) of [provided in] this section are subject to the funds HHSC allocates to each service provider as described in §357.201 [§104.201(d)] of this chapter (relating to Allocation of Funds).

(b) A service provider must make all [All] services [are] available in an accessible format for a person [consumers] who relies [rely] on alternative modes of communication.

(c) A [The] service provider must provide [provides] each independent living service in accordance with a person's [the] independent living plan or waived independent living plan.

(d) A [The] service provider may provide the following [independent living] services under this chapter:

(1) independent [Independent] living core services, which are:

(A) information and referral services;

(B) independent living skills training;

(C) peer counseling, including cross-disability peer counseling [(including cross-disability peer counseling)];

(D) individual and systems advocacy; and

(E) transition services; and

(2) independent [Independent] living services, which are:

(A) counseling services, including psychological and psychotherapeutic services;

(B) services for securing housing or shelter, including community living, [(including community living)] that support the purposes and titles of the Act, and services related to securing adaptive housing, including making appropriate modifications to spaces that serve or are occupied by a person with a disability [(including making appropriate modifications to spaces that serve or are occupied by individuals with disabilities)];

(C) rehabilitation technology;

(D) mobility training;

(E) services and training for a person [individuals] with cognitive and sensory disabilities, including life skills training and interpreter and reader services;

[(F) personal assistance services, including attendant care and the training of personnel providing such services;]

(F) [(G)] surveys, directories, and other materials that identify appropriate housing, recreation opportunities, accessible transportation, and other support services;

(G) [(H)] consumer information programs on the rehabilitation and independent living services that are available under the Act[-] especially services that are available for minorities and other in-

dividuals with disabilities who have traditionally been unserved or underserved by programs under the Act];

(H) [(H)] education and training necessary for living in a community and participating in community activities;

[(H)] supported livings];

(I) [(K)] transportation, including referral services[, personal assistance,] and training on the use of public transportation vehicles and systems;

(J) [(L)] physical rehabilitation;

(K) [(M)] therapeutic treatment;

(L) [(N)] the provision of needed prostheses and other appliances and devices;

(M) [(O)] social and recreational services, including individual and group [(individual and group)];

(N) [(P)] training for youth with a disability [disabilities] that is designed to develop self-awareness, self-esteem, and the ability to self-advocate, self-empower, and explore career options;

(O) [(Q)] services for children younger than 18 years of age;

(P) [(R)] federal, state, or local training, counseling, or other assistance designed to help a person [individuals] with a significant disability [disabilities] become independent and productive and live a good life;

(Q) [(S)] preventive services that encourage independence and reduce the need for the services that are available [provided] under the Act;

(R) [(T)] awareness programs that encourage an understanding of a person [individuals] with a significant disability [disabilities] and help the person [individuals] integrate into the community; and

(S) [(U)] other services, as needed, which are consistent with the provisions of the Act.

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Karen Ray

Chief Counsel

Health and Human Services Commission

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## SUBCHAPTER D. CONSUMER PARTICIPATION

26 TAC §§357.401, 357.403, 357.405

### STATUTORY AUTHORITY

The amendments are authorized by Texas Government Code §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; and Texas Human Resources Code §117.080(e), which authorizes the Executive Commissioner of HHSC to adopt rules necessary to implement that section, including requirements applicable to CILs providing independent living services under the program.

The amendments implement Texas Government Code §531.0055 and Texas Human Resources Code §117.080.

### §357.401. Consumer Participation System.

(a) A [The] service provider administers the consumer participation system in accordance with the rules in this chapter, the standards, and the contract requirements.

(b) A [The] service provider provides independent living core services, as described [defined] in §357.311(d)(1) [§104.311(d)(1)] of this chapter (relating to Scope of Services), at no cost to the person [consumer].

(c) Independent living services as described [defined] in §357.311(d)(2) [§104.311(d)(2)] of this chapter are subject to the rules in this subchapter.

(d) A [The] service provider gathers financial information about a person [the consumer] to determine the person's [the consumer's] adjusted gross income and the percentage of the federal poverty level for that income.

(e) A [The] service provider charges a person [the consumer] a fee for each independent living service described [provided] in §357.311(d)(2) [§104.311(d)(2)] of this chapter, according to the person's [consumer's] percentage of the federal poverty level. Medical records charges, support services, and diagnostic assessments or evaluations for the purchase of independent living services are exempt from consumer participation.

(f) A person [The consumer] or the person's [consumer's] representative signs a consumer participation agreement. Signing the agreement acknowledges the amount of the person's [consumer's] fee [for services] and provides written agreement that:

(1) the information provided by the person [consumer] or the person's [the consumer's] representative about the person's [consumer's] household size, annual gross income, allowable deductions, and comparable services or benefits is true and accurate; or

(2) the person [consumer] or the person's [the consumer's] representative chooses not to provide information about the person's [consumer's] household size, annual gross income, allowable deductions, and comparable services or benefits.

(g) A [The] service provider does not initiate or authorize the independent living services described in §357.311(d)(2) [subject to §104.311(d)(2)] of this chapter until the person [consumer] or the person's [the consumer's] representative signs the consumer [consumer's] participation agreement.

(h) If a person or the person's representative [the consumer] chooses not to provide information on the person's [the consumer's] household size, annual gross income, allowable deductions, and comparable services or benefits, the person or the person's representative [consumer] agrees to pay the entire cost of services.

(i) A person [The consumer] reports to the service provider as soon as possible all changes to household size, annual gross income, allowable deductions, and comparable services or benefits and signs a new consumer [consumer's] participation agreement.

(j) When a person [the consumer] signs a new consumer participation agreement, the new amount of the person's [consumer's] fee

[for service] takes effect the beginning of the following month. The new amount is not retroactive.

(k) A [The] service provider must develop a process to reconsider a person's ability to pay the fee and adjust the person's [consumer's] fee [for service] based on circumstances that are both extraordinary and documented. [This may include assessing the consumer's ability to pay the consumer's fee for service.]

(l) Only a [the] service provider's executive director or designee has authority to reconsider and adjust a person's [consumer's] fee [for service].

(m) Extraordinary circumstances are:

- (1) an increase or decrease in income;
- (2) unexpected medical expenses;
- (3) unanticipated disability related expenses;
- (4) a change in family size;
- (5) catastrophic loss, such as a fire, flood, or tornado;
- (6) short-term financial hardship, such as a major repair to the person's [consumer's] home or personally owned vehicle; or
- (7) other extenuating circumstances for which the person [consumer] makes a request and provides supporting documentation.

(n) A person's [The consumer's] calculated fee [for service] remains in effect during the reconsideration and adjustment process.

(o) A [The] service provider must:

(1) only use [uses] program income that is received from the consumer participation system [only] to provide the independent living services described [that are outlined] in §357.311(d)(2) [§104.311(d)(2)] of this chapter; and

(2) report [reports] fees collected to HHSC [DARS] as program income.

(p) A [The] service provider must [does] not use program income received from the consumer participation system to supplement funds from [supplant] any other [fund] sources.

(q) HHSC [DARS] does not pay any portion of a person's [the consumer's] fee [for service].

(r) A consumer [The consumer's] participation agreement and all financial information collected by a [the] service provider are subject to:

- (1) any data use agreement between HHSC [DARS] and the service provider; and
- (2) subpoena.

[(s) The consumer's participation agreement and all financial information collected by the service provider are subject to subpoena.]  
§357.403. *Fee Schedule Amount.*

(a) A [The] service provider is required to use the HHSC [DARS] fee schedule and instructions to calculate a person's [the consumer's] fee [for service].

(b) Factors that affect a person's [the consumer's] fee [for service] are:

- (1) household size;
- (2) annual gross income; and
- (3) allowable deductions.

(c) Household [The household] size equals:

(1) any person living inside or outside of the home who is eligible to be claimed as a dependent of a person [the consumer] on the person's [the consumer's] federal income tax return; [;] or [;]

(2) if a person [the consumer] is under 18 years of age [a minor], any other person living inside or outside of the home who is eligible to be claimed as a dependent of the person's [consumer's] parent or guardian on the parent or guardian's federal income tax return.

(d) A person's [The consumer's] annual gross income:

(1) equals the total annual gross income received by the household; and

(2) includes all income classified as taxable income by the Internal Revenue Service before federally allowable deductions are applied.

(e) A person's [The consumer's] allowable deductions are limited to [the consumer's] expenses in the following categories:

- (1) attendant care;
- (2) rent or home mortgage payments;
- (3) court-ordered child support payments made by the person [consumer] for financially dependent children who were not included in the calculation of household size; and
- (4) medical or dental expenses for treatment primarily intended to alleviate or prevent a physical or mental illness or manage a disability, with the expenses limited to the cost of:

- (A) diagnosis, cure, alleviation, treatment, or prevention of disease;
- (B) treatment of any affected body part or function;
- (C) medical services legally delivered by physicians, surgeons, dentists, and other medical practitioners;
- (D) medications, medical supplies, and diagnostic devices;
- (E) medical and dental health care insurance premiums;
- (F) transportation to receive medical or dental care; and
- (G) medical or dental debt that the family is paying on an established payment plan.

(f) A [The] service provider calculates the allowable deductions using the actual amounts a person [the consumer] paid during the previous 12-month period.

(g) A person [The consumer] provides the most recent tax return available as proof of annual gross income and allowable deductions. If a person [the consumer] has no tax return, the person [the consumer] provides bank statements, medical records, receipts, proof of benefits awards, or [and] other documentation to demonstrate annual gross income and allowable deductions.

(h) If a person [the consumer] does not provide documentation supporting the household's allowable deductions, the service provider determines the person's [consumer's] fee [for service] based on the person's [the consumer's] documented annual gross income with no allowable deductions.

(i) A person's [The consumer's] fee [for service] is equal to the amount on the HHSC [DARS sliding] fee schedule [scale] according to the household's annual adjusted income, that is, the annual gross income minus the allowable deductions [(that is, the annual gross income minus the allowable deductions)].

(j) A [The] service provider uses the most current [sliding] fee schedule [seale] and instructions published by HHSC [DARS] to determine a person's [the consumer's] fee [for service].

(k) The procedures, fee schedule, and instructions used [that DARS uses] to calculate a person's [consumer's] fee [for service] is available from HHSC [DARS] between 8:00 a.m. and 5:00 p.m. on business days.

§357.405. *Insurance Payments.*

(a) If a person [the consumer] has medical [and dental] insurance that covers an independent living service received by the person [consumer and the agreement for in-network services made between the insurance company and the service provider or service provider's subcontractor requires that the service provider or subcontractor accept as payment in full the deductible, copayment, or coinsurance and insurance reimbursement], then the person's [consumer's] fee [for service] is either the insurance deductible, copayment, or coinsurance, or the amount calculated by the HHSC [DARS] fee schedule, whichever is less.

(b) A person [The consumer] pays the premiums for medical [and dental] insurance. Neither HHSC [DARS] nor a [the] service provider pays the premiums.

(c) The premiums for medical [and dental] insurance do not count toward meeting the person's [consumer's] fee [for service].

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

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Karen Ray

Chief Counsel

Health and Human Services Commission

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For further information, please call: (817) 458-1902



## SUBCHAPTER E. PERSONAL [CONSUMER] RIGHTS

### 26 TAC §357.501, §357.503

#### STATUTORY AUTHORITY

The amendments are authorized by Texas Government Code §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; and Texas Human Resources Code §117.080(e), which authorizes the Executive Commissioner of HHSC to adopt rules necessary to implement that section, including requirements applicable to CILs providing independent living services under the program.

The amendments implement Texas Government Code §531.0055 and Texas Human Resources Code §117.080.

§357.501. *Personal Rights [of Consumers].*

(a) In accordance with applicable legal provisions, HHSC [DARS] does not, directly or through contractual or other arrangements, exclude, deny benefits to, limit the participation of, or otherwise discriminate against any person [individual] on the basis of race,

religion, [age,] color, [disability,] national origin, disability, [political belief, race, religion,] sex, age, or in retaliation for prior civil rights activity [or sexual orientation]. For the purposes of receiving independent living services, a person [the consumer] must have a significant disability; however, that requirement is not considered discrimination against anyone [any individual] on the basis of disability.

(b) A [The] service provider must notify a person [notifies the consumer] in writing about the rights included in subsection (a) of this section; §357.401 of this chapter (relating to Consumer Participation System); and §357.503 [§104.503] of this subchapter [chapter] (relating to Complaint Process); and §104.401 of this chapter (relating to Consumer Participation System):

(1) when a person [consumer] applies for services;

(2) when the service provider determines that a person [consumer] is ineligible for services; and

(3) when the service provider intends to terminate a person's services.

(c) A service provider must make personal [Consumer] rights [are] available in an accessible format for a person [consumers] who relies [rely] on alternative modes of communication.

§357.503. *Complaint Process.*

(a) Filing a complaint [with DARS] through the HHSC [Health and Human Services Commission] Office of Ombudsman.

(1) A person [consumer] may file a complaint with the HHSC Office of Ombudsman [DARS] alleging that a service provider violated a requirement of the program [independent living services was violated]. A person may file a complaint [may be filed] directly with the HHSC Office of Ombudsman [DARS] without filing the complaint [having been filed] with the service provider.

(2) A complaint may be filed by:

(A) mail: [to DARS:] Texas Health and Human Services Commission, Office of the Ombudsman, MC H-700, P.O. Box 13247, Austin, Texas 78711-3247;

(B) phone: 1-877-787-8999 or Relay Texas for people with a hearing or speech disability at[:] 7-1-1 or 1-800-735-2989;

(C) fax: 1-888-780-8099; or

(D) online: on the HHS website, HHS Office of the Ombudsman. [: <http://www.hhsc.state.tx.us/ombudsman/contact.shtml>]

(3) More information regarding the complaint process may be obtained by calling the Office of the Ombudsman at 1-877-787-8999 or Relay Texas for people with a hearing or speech disability at[:] 7-1-1 or 1-800-735-2989.

(b) Filing a discrimination complaint with the HHSC Civil Rights Office (CRO).

(1) The HHSC CRO sets policies and procedures to address complaints resulting from alleged discrimination.

(2) A person may file a complaint with the HHSC CRO alleging that HHSC or an HHSC agency contractor discriminated against the person based on a protected category listed in §357.501(a) of this subchapter (relating to Personal Rights). A person may file a complaint directly with the HHSC CRO without filing the complaint with the service provider.

(3) A discrimination complaint may be filed by:

(A) phone: 1-888-388-6322 or 512-438-4313;



(B) email: [HHSCivilRightsOffice@hhs.texas.gov](mailto:HHSCivilRightsOffice@hhs.texas.gov);

(C) fax: 512-438-5885; or

(D) mail: Civil Rights Office, Health and Human Services Commission, P.O. Box 13247, Mail Code 1560, Austin, Texas 78711.

(c) [(b)] Filing a complaint with the Client Assistance Program (CAP).

(1) The CAP is implemented by Disability Rights Texas (DRTx), a legal services organization whose mission is to protect the human, service, and legal rights of persons with disabilities in Texas.

(2) DRTx advocates are not employees of HHSC [DARS]. There are no fees for CAP services, which are provided by advocates and attorneys when necessary. Services are confidential.

(3) A person [consumer] enrolled in the program [independent living services] or the person's [the consumer's] representative may file a complaint with DRTx alleging that a service provider violated a requirement of the program [independent living services]. A person may file a [The] complaint directly with DRTx without filing the complaint [need not be filed] with the service provider.

(4) A complaint may be filed by:

(A) phone: 1-800-252-9108; or

(B) videophone: 1-866-362-2851.

(5) More information about the complaint process is available by calling DRTx at 1-800-252-9108 or videophone at 1-866-362-2851.

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

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Karen Ray

Chief Counsel

Health and Human Services Commission

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For further information, please call: (817) 458-1902



## SUBCHAPTER F. TECHNICAL ASSISTANCE AND TRAINING

### 26 TAC §357.601

#### STATUTORY AUTHORITY

The amendment is authorized by Texas Government Code §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; and Texas Human Resources Code §117.080(e), which authorizes the Executive Commissioner of HHSC to adopt rules necessary to implement that section, including requirements applicable to CILs providing independent living services under the program.

The amendment implements Texas Government Code §531.0055 and Texas Human Resources Code §117.080.

§357.601. [Administering Agency's Role in Providing] Technical Assistance Provided by HHSC.

(a) HHSC provides [DARS gives the service provider] technical assistance to a service provider, as needed, to help the service provider offer a full range of independent living services.

(b) Technical assistance provided by HHSC may include:

(1) help to expand a service provider's capacity to provide a full range of independent living services; and

(2) training on:

(A) the independent living philosophy; and

(B) the administration, operation, evaluation, and performance of independent living services according to the rules in this chapter, the standards, and the contract requirements.

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

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Chief Counsel

Health and Human Services Commission

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## SUBCHAPTER G. REFERRALS

### 26 TAC §357.701

#### STATUTORY AUTHORITY

The amendment is authorized by Texas Government Code §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; and Texas Human Resources Code §117.080(e), which authorizes the Executive Commissioner of HHSC to adopt rules necessary to implement that section, including requirements applicable to CILs providing independent living services under the program.

The amendment implements Texas Government Code §531.0055 and Texas Human Resources Code §117.080.

§357.701. *Referrals Received by HHSC [Expectations of Administering Agency's] Employees.*

(a) HHSC refers a person [Individuals] seeking independent living services to a service provider as described in subsection (b) of this section [are referred to the local service provider].

(b) If a person [an individual] calls HHSC [DARS] to request independent living services, HHSC [DARS]:

(1) gives the person [individual] the contact information for the nearest service provider, which can be found on the HHSC website under Independent Living Services;

(2) obtains the person's [individual's] permission to forward the person's [the individual's] name and contact information to the service provider; and

(3) forwards the person's [individual's] name and contact information to the service provider.

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Chief Counsel  
Health and Human Services Commission  
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# ADOPTED RULES

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

## TITLE 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.

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Nichole Bunker-Henderson  
General Counsel  
Texas Higher Education Coordinating Board  
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#### 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.

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#### 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.

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## 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.

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## 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.

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## 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.

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## 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.

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## 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.

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#### 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.

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Nichole Bunker-Henderson  
General Counsel

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## 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.

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## 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.

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## 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.

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## 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.

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General Counsel

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## 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.

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Nichole Bunker-Henderson  
General Counsel  
Texas Higher Education Coordinating Board  
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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.

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Nichole Bunker-Henderson  
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## 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.

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Nichole Bunker-Henderson

General Counsel

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## 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.

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Nichole Bunker-Henderson

General Counsel

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## 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.

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Nichole Bunker-Henderson

General Counsel

Texas Higher Education Coordinating Board

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## 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.

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Nichole Bunker-Henderson

General Counsel

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## 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.

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## 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.

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General Counsel

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## 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.

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Nichole Bunker-Henderson

General Counsel

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## 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.

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Nichole Bunker-Henderson

General Counsel

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## 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.

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Nichole Bunker-Henderson

General Counsel

Texas Higher Education Coordinating Board

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## 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.

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## 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.

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Nichole Bunker-Henderson

General Counsel

Texas Higher Education Coordinating Board

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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.

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Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

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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.

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Cynthia Hernandez  
General Counsel  
Department of State Health Services  
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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  
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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.

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### 26 TAC §350.103, §350.107

#### STATUTORY AUTHORITY

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#### §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.

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## 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.

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**26 TAC §350.209, §350.225**

**STATUTORY AUTHORITY**

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**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.

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

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

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

**STATUTORY AUTHORITY**

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## SUBCHAPTER E. SPECIALIZED REHABILITATIVE SERVICES

### 26 TAC §350.501, §350.507

#### STATUTORY AUTHORITY

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## SUBCHAPTER F. PUBLIC OUTREACH

### 26 TAC §350.601

#### STATUTORY AUTHORITY

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

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## 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.

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## 26 TAC §§350.704, 350.706 - 350.709

### STATUTORY AUTHORITY

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## SUBCHAPTER H. ELIGIBILITY, EVALUATION, AND ASSESSMENT

### 26 TAC §350.801

#### STATUTORY AUTHORITY

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## 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

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#### §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

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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.

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Karen Ray

Chief Counsel

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### 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.

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Karen Ray

Chief Counsel

Health and Human Services Commission

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## 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 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.

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Chief Counsel

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### 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 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.

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Chief Counsel

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## 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 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.

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Chief Counsel

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### 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 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.

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Karen Ray  
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## 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.

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### 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.

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## 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.

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Chief Counsel  
Health and Human Services Commission  
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### 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.

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 Karen Ray  
 Chief Counsel  
 Health and Human Services Commission  
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**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  
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 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.

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TRD-202500247

David Richards

General Counsel

Motor Vehicle Crime Prevention Authority

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Proposal publication date: November 8, 2024

For further information, please call: (512) 465-1423







# REVIEW OF AGENCY RULES

This section contains notices of state agency rule review as directed by the Texas Government Code, §2001.039.

Included here are proposed rule review notices, which invite public comment to specified rules under review; and adopted rule review notices, which summarize public comment received as part of the review. The complete text of an agency's rule being reviewed is available in the *Texas Administrative Code* on the Texas Secretary of State's website.

For questions about the content and subject matter of rules, please contact the state agency that is reviewing the rules. Questions about the website and printed copies of these notices may be directed to the *Texas Register* office.

## Proposed Rule Reviews

Texas Higher Education Coordinating Board

### Title 19, Part 1

The Texas Higher Education Coordinating Board (Coordinating Board) proposes the review of Texas Administrative Code (TAC), Title 19, Part 1, Chapter 22, Subchapter B, Provisions for the Tuition Equalization Grant Program, pursuant to Texas Government Code §2001.039.

This review is conducted as required by law, which states that state agencies must assess whether the initial reasons for adopting a rule continue to exist every four years. As required by statute, the Coordinating Board will accept comments as to whether TAC, Chapter 22, Subchapter B, should continue.

Comments on the review may be submitted to Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, P.O. Box 12788, Austin, Texas 78711-2788, or via email at SFAPPolicy@highered.texas.gov. Comments will be accepted for 30 days following publication of this notice in the *Texas Register*.

The text of the rule section being reviewed will not be published, but may be found in TAC, Title 19, Part 1, Chapter 22, Subchapter B.

TRD-202500215

Nichole Bunker-Henderson

General Counsel

Texas Higher Education Coordinating Board

Filed: January 23, 2025



The Texas Higher Education Coordinating Board (Coordinating Board) proposes the review of Texas Administrative Code (TAC), Title 19, Part 1, Chapter 22, Subchapter L, Toward Excellence, Access, and Success (Texas) Grant Program, pursuant to Texas Government Code §2001.039.

This review is conducted as required by law, which states that state agencies must assess whether the initial reasons for adopting a rule continue to exist every four years. As required by statute, the Coordinating Board will accept comments as to whether TAC, Chapter 22, Subchapter L, should continue.

Comments on the review may be submitted to Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, P.O. Box 12788, Austin, Texas 78711-2788, or via email at SFAPPolicy@highered.texas.gov. Comments will be accepted for 30 days following publication of this notice in the *Texas Register*.

The text of the rule section being reviewed will not be published, but may be found in TAC, Title 19, Part 1, Chapter 22, Subchapter L.

TRD-202500217

Nichole Bunker-Henderson

General Counsel

Texas Higher Education Coordinating Board

Filed: January 23, 2025



The Texas Higher Education Coordinating Board (Coordinating Board) proposes the review of Texas Administrative Code (TAC), Title 19, Part 1, Chapter 22, Subchapter M, Texas Educational Opportunity Grant Program, pursuant to Texas Government Code §2001.039.

This review is conducted as required by law, which states that state agencies must assess whether the initial reasons for adopting a rule continue to exist every four years. As required by statute, the Coordinating Board will accept comments as to whether TAC, Chapter 22, Subchapter M, should continue.

Comments on the review may be submitted to Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, P.O. Box 12788, Austin, Texas 78711-2788, or via email at SFAPPolicy@highered.texas.gov. Comments will be accepted for 30 days following publication of this notice in the *Texas Register*.

The text of the rule section being reviewed will not be published, but may be found in TAC, Title 19, Part 1, Chapter 22, Subchapter M.

TRD-202500219

Nichole Bunker-Henderson

General Counsel

Texas Higher Education Coordinating Board

Filed: January 23, 2025



## Adopted Rule Reviews

Texas Higher Education Coordinating Board

### Title 19, Part 1

The Texas Higher Education Coordinating Board (Coordinating Board) adopts the review of Title 19, Part 1, Chapter 22, Subchapter F, Matching Scholarships to Retain Students in Texas, §22.112 without changes, and §§22.113, 22.114, and 22.115 with changes as published concurrently with this notice.

The proposed notice of review was published in the October 11, 2024, issue of the *Texas Register* (49 TexReg 8407). No comments were received regarding the review of this chapter. During its review, the Coordinating Board determined that the initial reasons for adopting these sections continue to exist. Section 22.112 is adopted, and §§22.113,

22.114, and 22.115 are readopted with amendments in accordance with the requirements of the Texas Government Code, §2001.039.

This concludes the Coordinating Board's review of Chapter 22, Subchapter F, as required by the Texas Government Code, §2001.039.

TRD-202500273

Nichole Bunker-Henderson

General Counsel

Texas Higher Education Coordinating Board

Filed: January 24, 2025



The Texas Higher Education Coordinating Board (Coordinating Board) adopts the review of Title 19, Part 1, Chapter 22, Subchapter I, Texas Armed Services Scholarship Program, §§22.171 - 22.174 without changes, and §§22.163 - 22.168 and 22.170 with changes as published concurrently with this notice.

The proposed notice of review was published in the October 11, 2024, issue of the *Texas Register* (49 TexReg 8407). No comments were received regarding the review of this chapter. During its review, the Coordinating Board determined that the initial reasons for adopting these sections continue to exist. Sections 22.171- 22.174 are adopted, and §§22.163- 22.168 and 22.170 are readopted with amendments in accordance with the requirements of the Texas Government Code, §2001.039.

This concludes the Coordinating Board's review of Chapter 22, Subchapter I, as required by the Texas Government Code, §2001.039.

TRD-202500276

Nichole Bunker-Henderson

General Counsel

Texas Higher Education Coordinating Board

Filed: January 24, 2025



Department of State Health Services

### **Title 25, Part 1**

The Texas Health and Human Services Commission (HHSC), on behalf of the Texas Department of State Health Services (DSHS), adopts the review of the chapter below in Title 25, Part 1, of the Texas Administrative Code (TAC):

Chapter 85, Local Public Health

Notice of the review of this chapter was published in the October 25, 2024, issue of the *Texas Register* (49 TexReg 8593). HHSC and DSHS received no comments concerning this chapter.

HHSC and DSHS have reviewed Chapter 85 in accordance with Texas Government Code §2001.039, which requires state agencies to assess, every four years, whether the initial reasons for adopting a rule continue to exist.

The agencies determined that the original reasons for adopting all rules in the chapter continue to exist and readopts Chapter 85. Any amendments, if applicable, to Chapter 85 identified by HHSC and DSHS in the rule review will be proposed in a future issue of the *Texas Register*.

This concludes HHSC's and DSHS' review of 25 TAC Chapter 85 as required by Texas Government Code §2001.039.

TRD-202500277

Jessica Miller

Director, Rules Coordination Office

Department of State Health Services

Filed: January 24, 2025



Texas Municipal Retirement System

### **Title 34, Part 6**

The Texas Municipal Retirement System (TMRS) adopts the review of Texas Administrative Code (TAC) Title 34, Part 6, Chapter 121, Practice and Procedure Regarding Claims (Chapter 121), pursuant to Texas Government Code, §2001.039.

Notice of the review of Chapter 121 was published in the October 18, 2024, issue of the *Texas Register* (49 TexReg 8477). TMRS received no comments concerning the review of this chapter.

TMRS has reviewed Chapter 121 in accordance with Texas Government Code §2001.039, which requires agencies to assess, every four years, whether the initial reasons for adopting a rule continue to exist. TMRS' Board of Trustees determined that the original reasons for adopting all rules in Chapter 121 continue to exist and readopts Chapter 121.

This concludes the review of 34 TAC, Part 6, Chapter 121.

TRD-202500281

Christine Sweeney

Chief Legal Officer

Texas Municipal Retirement System

Filed: January 27, 2025



Motor Vehicle Crime Prevention Authority

### **Title 43, Part 3**

The Motor Vehicle Crime Prevention Authority (authority) files this notice of readoption of Title 43 Texas Administrative Code (TAC), Part 3, Chapter 57, subject to the amendments in Chapter 57 that are also published in this issue of the *Texas Register*. The review was conducted pursuant to Government Code, §2001.039.

Notice of the department's intention to review was published in the November 8, 2024, issue of the *Texas Register* (49 TexReg 9031). The department did not receive any comments on the rule reviews.

As a result of the review, the department readopts Chapter 57 in accordance with the requirements of Government Code, §2001.039, with amendments in Chapter 57 resulting from the rule review also published in this issue of the *Texas Register*. The department has determined that the reasons for initially adopting the readopted rules continue to exist.

This concludes the review of Chapter 57.

TRD-202500231

David Richards

General Counsel

Motor Vehicle Crime Prevention Authority

Filed: January 24, 2025



# IN

# ADDITION

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings issued by the Office of Consumer Credit Commissioner, and consultant proposal requests and awards. State agencies also may publish other notices of general interest as space permits.

## Texas State Affordable Housing Corporation

### Notice of Request for Proposals for Financial Advisor Services

Notice is hereby given of a Request for Proposals (RFP) by TSAHC for professional Financial Advisor Services under TSAHC's Single Family and Multifamily Private Activity Bond Programs. Entities interested in providing these services must submit all the materials listed in the RFP which can be found on TSAHC's website at [www.tsahc.org](http://www.tsahc.org).

The deadline for submissions in response to this RFP is **Friday, March 7, 2025**. Responses should be emailed to Michael Wilt at [mwilt@tsahc.org](mailto:mwilt@tsahc.org). Faxed responses will not be accepted. For questions or comments, please contact Michael Wilt at (512) 334-2157 or by email at [mwilt@tsahc.org](mailto:mwilt@tsahc.org).

TRD-202500302

David Long

President

Texas State Affordable Housing Corporation

Filed: January 29, 2025



### Notice of Request for Proposals for Single Family Programs Counsel

Notice is hereby given of a Request for Proposals (RFP) by TSAHC for Single Family Programs Counsel for the Corporation. Entities interested in providing legal counsel services must submit all the materials listed in the RFP which can be found on the Corporation's website at [www.tsahc.org](http://www.tsahc.org).

The deadline for submissions in response to this RFP is **Friday, March 7, 2025**. Responses should be emailed to Michael Wilt at [mwilt@tsahc.org](mailto:mwilt@tsahc.org). Faxed responses will not be accepted. For questions or comments, please contact Michael Wilt at (512) 334-2157 or by email at [mwilt@tsahc.org](mailto:mwilt@tsahc.org).

TRD-202500300

David Long

President

Texas State Affordable Housing Corporation

Filed: January 29, 2025



### Notice of Request for Proposals for Website Redesign Services

Notice is hereby given of a Request for Proposals (RFP) by TSAHC for Website Redesign Services for the Corporation's website. Entities interested in providing these services must submit all the materials listed in the RFP which can be found on TSAHC's website at [www.tsahc.org](http://www.tsahc.org).

The deadline for submissions in response to this RFP is **Friday, March 14, 2025**. Faxed responses will not be accepted. For questions or comments, please contact Michael Wilt at (512) 334-2157 or by email at [mwilt@tsahc.org](mailto:mwilt@tsahc.org).

TRD-202500303

David Long

President

Texas State Affordable Housing Corporation

Filed: January 29, 2025



## Comptroller of Public Accounts

### Notice of Eligibility of Appraised Value

In compliance with Property Tax Code, §6.425(g), the Comptroller of Public Accounts has determined that a property's minimum appraised value for the 2025 tax year, as determined by the local appraisal district, must be \$61,349,201 to be eligible for a protest hearing in front of a local appraisal review board special panel for that tax year.

Inquiries may be submitted to Shannon Murphy, Director, Property Tax Assistance Division, P.O. Box 13528, Austin, Texas 78711 or to the email address: [ptad.rulecomments@cpa.texas.gov](mailto:ptad.rulecomments@cpa.texas.gov).

Issued in Austin, Texas, on January 22, 2025.

TRD-202500201

Victoria North

General Counsel for Fiscal and Agency Affairs

Comptroller of Public Accounts

Filed: January 22, 2025



## Office of Consumer Credit Commissioner

### Notice of Rate Ceilings

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in §303.003, and §303.009, Texas Finance Code.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 02/03/25 - 02/09/25 is 18.00% for consumer<sup>1</sup> credit.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 02/03/25 - 02/09/25 is 18.00% for commercial<sup>2</sup> credit.

<sup>1</sup> Credit for personal, family, or household use.

<sup>2</sup> Credit for business, commercial, investment, or other similar purpose.

TRD-202500297

Leslie L. Pettijohn

Commissioner

Office of Consumer Credit Commissioner

Filed: January 28, 2025



## Texas Commission on Environmental Quality

### Agreed Orders

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) in accordance with Texas Water Code

(TWC), §7.075. TWC, §7.075, requires that before the commission may approve the AOs, the commission shall allow the public an opportunity to submit written comments on the proposed AOs. TWC, §7.075, requires that notice of the proposed orders and the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **March 11, 2025**. TWC, §7.075, also requires that the commission promptly consider any written comments received and that the commission may withdraw or withhold approval of an AO if a comment discloses facts or considerations that indicate that consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed AO is not required to be published if those changes are made in response to written comments.

A copy of each proposed AO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building C, 1st Floor, Austin, Texas 78753, (512) 239-2545 and at the applicable regional office listed as follows. Written comments about an AO should be sent to the enforcement coordinator designated for each AO at the commission's central office at P.O. Box 13087, Austin, Texas 78711-3087 and must be received by 5:00 p.m. on **March 11, 2025**. Written comments may also be sent by facsimile machine to the enforcement coordinator at (512) 239-2550. The commission's enforcement coordinators are available to discuss the AOs and/or the comment procedure at the listed phone numbers; however, TWC, §7.075, provides that comments on the AOs shall be submitted to the commission in writing.

(1) COMPANY: Aqua Texas, Incorporated; DOCKET NUMBER: 2024-0952-PWS-E; IDENTIFIER: RN102677622; LOCATION: Cypress, Harris County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.106(f)(3)(C) and Texas Health and Safety Code, §341.0315(c), by failing to comply with the maximum contaminant level of 0.010 milligrams per liter for arsenic based on a running annual average; PENALTY: \$1,437; ENFORCEMENT COORDINATOR: Ilia Perez-Ramirez, (713) 767-3743; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(2) COMPANY: Azteca Milling, L.P.; DOCKET NUMBER: 2022-1477-AIR-E; IDENTIFIER: RN100215086; LOCATION: Plainview, Hale County; TYPE OF FACILITY: corn milling plant; RULES VIOLATED: 30 TAC §116.115(c) and §122.143(4), New Source Review Permit Number 19383, Special Conditions Number 17.C., Federal Operating Permit (FOP) Number 3468, General Terms and Conditions (GTC) and Special Terms and Conditions (STC) Number 7, and Texas Health and Safety Code (THSC), §382.085(b), by failing to identify all required information on the Method 9 Visible Emission Observation Forms; and 30 TAC §122.143(4) and §122.145(2)(A) - (C), FOP Number O3468, GTC, and THSC, §382.085(b), by failing to report all instances of deviations, failing to submit a deviation report for at least each six-month period after permit issuance, and failing to submit the deviation report no later than 30 days after the end of each reporting period; PENALTY: \$33,150; ENFORCEMENT COORDINATOR: Trenton White, (903) 535-5155; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(3) COMPANY: BRACKEN VILLAGE, LTD.; DOCKET NUMBER: 2024-1042-PWS-E; IDENTIFIER: RN104790274; LOCATION: San Antonio, Comal County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.39(e) and (h)(1) and Texas Health and Safety Code (THSC), §341.035(a), by failing to submit plans and specifications to the executive director (ED) for review and

approval prior to the construction of a new public water supply; 30 TAC §290.41(c)(3)(A), by failing to submit well completion data for review and approval prior to placing the facility's public drinking water well into service; 30 TAC §290.46(d)(2)(A) and §290.110(b)(4) and THSC, §341.0315(c), by failing to maintain a disinfectant residual of at least 0.2 milligrams per liter of free chlorine throughout the distribution system at all times; and 30 TAC §290.46(e)(4)(A) and THSC, §341.033(a), by failing to operate the facility under the direct supervision of a water works operator who holds an applicable, valid Class D or higher ground water license issued by the ED; PENALTY: \$10,765; ENFORCEMENT COORDINATOR: Taner Hengst, (512) 239-1143; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(4) COMPANY: BW GRAYSON BUSINESS PARK ASSOCIATION, INCORPORATED; DOCKET NUMBER: 2024-0010-PWS-E; IDENTIFIER: RN108521550; LOCATION: Houston, Harris County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.107(f)(1) and Texas Health and Safety Code, §341.0315(c), by failing to comply with the maximum contaminant level of 0.1 milligrams per liter for monochlorobenzene, based on a running annual average; PENALTY: \$1,625; ENFORCEMENT COORDINATOR: Tessa Bond, (512) 239-1269; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(5) COMPANY: City of Kerrville; DOCKET NUMBER: 2024-0951-PWS-E; IDENTIFIER: RN101425296; LOCATION: Kerrville, Kerr County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.115(f)(1) and Texas Health and Safety Code, §341.0315(c), by failing to comply with the maximum contaminant level of 0.80 milligrams per liter for total trihalomethanes, based on the locational running annual average; PENALTY: \$2,500; ENFORCEMENT COORDINATOR: Ronica Rodriguez Scott, (512) 239-2510; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(6) COMPANY: City of Lubbock; DOCKET NUMBER: 2023-1324-MSW-E; IDENTIFIER: RN102327491; LOCATION: Abernathy, Lubbock County; TYPE OF FACILITY: Type I landfill; RULES VIOLATED: 30 TAC §330.139 and §330.145, Municipal Solid Waste Permit Number 2252, and Site Operating Plan (SOP) Section 11, Control of Windblown Solid Waste and Litter and SOP Section 14, Materials Along the Route to the Site, by failing to maintain and operate the working face in a manner to control windblown waste, and failing to conduct at least once per day cleanup of waste materials spilled along and within the right-of-way of public access roads serving the facility for a distance of two miles in either direction from any entrances used for delivery of waste to the facility; PENALTY: \$6,750; ENFORCEMENT COORDINATOR: Celicia Garza, (210) 657-8422; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 492-3096.

(7) COMPANY: DEVON ENERGY PRODUCTION COMPANY, L.P.; DOCKET NUMBER: 2023-0757-PWS-E; IDENTIFIER: RN107853079; LOCATION: Cuero, Dewitt County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.115(f)(1) and Texas Health and Safety Code, §341.0315(c), by failing to comply with the maximum contaminant level of 0.080 milligram per liter for total trihalomethanes, based on the locational running annual average; PENALTY: \$1,125; ENFORCEMENT COORDINATOR: Wyatt Throm, (512) 239-1120; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(8) COMPANY: Drive-In USA, Incorporated; DOCKET NUMBER: 2022-1617-PWS-E; IDENTIFIER: RN103173431; LOCATION: Lubbock, Lubbock County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.41(c)(3)(A), by failing to submit

well completion data for review and approval prior to placing the facility's public drinking water well into service; 30 TAC §290.42(j), by failing to use an approved chemical or media for the disinfection of potable water that conforms to the American National Standards Institute/National Sanitation Foundation Standard 60 for Drinking Water Treatment Chemicals; 30 TAC §290.46(f)(2) and (3)(B)(iv), by failing to maintain water works operation and maintenance records and make them readily available for review by the Executive Director upon request; 30 TAC §290.46(m)(1)(B), by failing to inspect the facility's two pressure tanks annually; and 30 TAC §290.46(s)(2)(C)(i), by failing to verify the accuracy of the manual disinfectant residual analyzer at least once every 90 days using chlorine solutions of known concentrations; PENALTY: \$1,926; ENFORCEMENT COORDINATOR: Claudia Bartley, (512) 239-1116; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(9) COMPANY: HALLE PROPERTIES, L.L.C. dba Discount Tire; DOCKET NUMBER: 2024-0097-MSW-E; IDENTIFIER: RN111461885; LOCATION: Beaumont, Jefferson County; TYPE OF FACILITY: new, used and scrap tire business; RULE VIOLATED: 30 TAC §328.58(a), by failing to maintain a complete and correct record of each individual load of used or scrap tires or tire pieces transported from the facility; PENALTY: \$625; ENFORCEMENT COORDINATOR: Eunice Adegelu, (512) 239-5082; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(10) COMPANY: Helms Trail Properties, Incorporated; DOCKET NUMBER: 2024-0719-MWD-E; IDENTIFIER: RN104624770; LOCATION: Forney, Kaufman County; TYPE OF FACILITY: wastewater treatment facility; RULES VIOLATED: 30 TAC §305.125(1), TWC, §26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit Number WQ0014627001, Effluent Limitations and Monitoring Requirements Numbers 1 and 6, by failing to comply with permitted effluent limitations; PENALTY: \$17,875; ENFORCEMENT COORDINATOR: Samantha Smith, (512) 239-2099; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(11) COMPANY: Howard Water Supply Corporation; DOCKET NUMBER: 2024-0920-PWS-E; IDENTIFIER: RN101233955; LOCATION: Waxahachie, Ellis County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.46(k), by failing to obtain approval from the Executive Director for the use of interconnections; and 30 TAC §290.46(z), by failing to create a nitrification action plan for all systems distributing chloraminated water; PENALTY: \$1,000; ENFORCEMENT COORDINATOR: Emerson Rinewalt, (512) 239-1131; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(12) COMPANY: Hudson Water Supply Corporation; DOCKET NUMBER: 2024-1038-PWS-E; IDENTIFIER: RN101455954; LOCATION: Lufkin, Angelina County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.115(f)(1) and Texas Health and Safety Code, §341.0315(c), by failing to comply with the maximum contaminant level of 0.080 milligrams per liter for total trihalomethanes, based on the locational running annual average; PENALTY: \$4,250; ENFORCEMENT COORDINATOR: Rachel Frey, (512) 239-4330; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(13) COMPANY: I.M.C. WASTE DISPOSAL, INCORPORATED; DOCKET NUMBER: 2024-0855-MSW-E; IDENTIFIER: RN101306082; LOCATION: Wichita Falls, Wichita County; TYPE OF FACILITY: Type V municipal solid waste (MSW) processing facility; RULES VIOLATED: 30 TAC §330.127(2) and MSW Processing Permit Number 2229A, Part IV Site Operating Plan (SOP), Section 4.2 - Equipment, by failing to update the SOP with a descrip-

tion, including the minimum number, size, type, and function, of the equipment utilized at the facility; and 30 TAC §330.209(a) and (c) and §330.227 and MSW Processing Permit Number 2229A, Part IV SOP, Sections 4.7 - Storage Requirements and 4.12 - Spill Prevention and Control, by failing to ensure that storage and processing areas are designed to control and contain spills and contaminated water from leaving the facility, and failing to store all solid waste in a manner that does not constitute a fire, safety, or health hazard which includes utilizing storage containers of an adequate size and strength, and in sufficient numbers, to contain all solid waste generated in the period of time between collections and store all liquid waste in an enclosed building, vessel, or container; PENALTY: \$3,801; ENFORCEMENT COORDINATOR: Eresha DeSilva, (512) 239-5084; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(14) COMPANY: MANVEL TERRACE UTILITIES, INCORPORATED; DOCKET NUMBER: 2024-0472-PWS-E; IDENTIFIER: RN101269579; LOCATION: Pearland, Brazoria County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.41(c)(3)(M), by failing to provide a suitable sampling cock on the discharge pipe of the facility's Well Number 1 prior to any treatment; 30 TAC §290.43(e), by failing to install all potable water storage tanks and pressure maintenance facilities in a lockable building that is designed to prevent intruder access or enclosed by an intruder-resistant fence with lockable gates; 30 TAC §290.46(f)(2) and (3)(A)(iv), (D)(ii), and (5)(A), by failing to maintain water works operation and maintenance records and make them readily available for review by the executive director upon request; 30 TAC §290.46(i), by failing to adopt an adequate plumbing ordinance, regulations, or service agreement with provisions for proper enforcement to ensure that neither cross-connections nor other unacceptable plumbing practices are permitted; 30 TAC §290.46(m), by failing to properly maintain the good working condition and general appearance of the system's facilities and equipment; and 30 TAC §290.46(n)(2), by failing to make available an accurate and up-to-date map of the distribution system so that valves and mains can be easily located during emergencies; PENALTY: \$1,995; ENFORCEMENT COORDINATOR: Emerson Rinewalt, (512) 239-1131; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(15) COMPANY: MISSION INDEV, LLC; DOCKET NUMBER: 2024-0969-PWS-E; IDENTIFIER: RN101232288; LOCATION: Houston, Harris County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.42(e)(5), by failing to house the hypochlorination solution containers in a secure enclosure to protect them from adverse weather conditions and vandalism; 30 TAC §290.46(m), by failing to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the system's facilities and equipment; and 30 TAC §290.46(m)(4), by failing to maintain all water treatment units, storage and pressure maintenance facilities, distribution system lines, and related appurtenances in a watertight condition and free of excessive solids; PENALTY: \$660; ENFORCEMENT COORDINATOR: Mason DeMasi, (210) 657-8425; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 492-3096.

(16) COMPANY: NextEra Water Texas, LLC; DOCKET NUMBER: 2024-0990-PWS-E; IDENTIFIER: RN105160642; LOCATION: Aransas Pass, Aransas County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.115(f)(1) and Texas Health and Safety Code, §341.0315(c), by failing to comply with the maximum contaminant level of 0.080 milligrams per liter for total trihalomethanes, based on the locational running annual average; PENALTY: \$1,275; ENFORCEMENT COORDINATOR: Mason

DeMasi, (210) 657-8425; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 492-3096.

(17) COMPANY: Stepping Stone Ministry, Incorporated; DOCKET NUMBER: 2023-1040-PWS-E; IDENTIFIER: RN106505100; LOCATION: Midland, Midland County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.106(f)(2) and Texas Health and Safety Code (THSC), §341.031(a), by failing to comply with the acute maximum contaminant level (MCL) of ten milligrams per liter (mg/L) for nitrate; and 30 TAC §290.115(f)(1) and THSC, §341.0315(c), by failing to comply with the MCL of 0.080 mg/L for total trihalomethanes, based on the locational running annual average; PENALTY: \$11,125; ENFORCEMENT COORDINATOR: Corinna Willis, (512) 239-2504; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(18) COMPANY: Texas Water Utilities, L.P.; DOCKET NUMBER: 2024-0559-PWS-E; IDENTIFIER: RN101380889; LOCATION: Mabank, Henderson County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.115(f)(1) and §290.122(b)(2)(A) and (f) and Texas Health and Safety Code, §341.0315(c), by failing to comply with the maximum contaminant level (MCL) of 0.080 milligrams per liter for total trihalomethanes (TTHM), based on the locational running annual average, and failing to provide public notification, accompanied with a signed Certificate of Delivery, to the Executive Director regarding the failure to comply with the MCL for TTHM during the fourth quarter of 2023; PENALTY: \$2,625; ENFORCEMENT COORDINATOR: Emerson Rinewalt, (512) 239-1131; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(19) COMPANY: Town of Combes; DOCKET NUMBER: 2024-0651-PWS-E; IDENTIFIER: RN101259299; LOCATION: Combes, Cameron County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.39(o)(3) and §290.45(h)(1), by failing to adopt and submit to the Executive Director a complete Emergency Preparedness Plan that demonstrates the facility's ability to provide emergency operations; PENALTY: \$55; ENFORCEMENT COORDINATOR: Ronica Rodriguez Scott, (512) 239-2510; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(20) COMPANY: Town of Holiday Lakes; DOCKET NUMBER: 2024-0573-PWS-E; IDENTIFIER: RN102691359; LOCATION: Holiday Lakes, Brazoria County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.41(c)(3)(Q), by failing to ensure that all openings to the atmosphere are covered with a 16-mesh or finer corrosion resistant screening material or an acceptable equivalent; 30 TAC §290.43(c)(2), by failing to ensure that the facility's ground storage tank hatch remains locked except during inspections and maintenance; 30 TAC §290.46(e) and Texas Health and Safety Code, §341.033(a), by failing to use a water works operator who holds an applicable, valid license issued by the executive director (ED); 30 TAC §290.46(f)(2) and (3)(A)(vii), by failing to maintain water works operation and maintenance records and make them readily available for review by the ED upon request; and 30 TAC §290.46(m), by failing to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the system's facilities and equipment; PENALTY: \$1,264; ENFORCEMENT COORDINATOR: Ashley Lemke, (512) 239-1118; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(21) COMPANY: Trent Water Works, Incorporated; DOCKET NUMBER: 2023-0970-PWS-E; IDENTIFIER: RN101202752; LOCATION: Jones Creek, Brazoria County; TYPE OF FACILITY: public water supply; RULE VIOLATED: 30 TAC §290.39(l)(5), by failing

to meet the conditions for an issued exception; PENALTY: \$900; ENFORCEMENT COORDINATOR: Tessa Bond, (512) 239-1269; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(22) COMPANY: UIRC-GSA Cotulla TX, LLC; DOCKET NUMBER: 2023-0831-PWS-E; IDENTIFIER: RN103779542; LOCATION: Cotulla, La Salle County; TYPE OF FACILITY: public water supply; RULE VIOLATED: 30 TAC §290.46(m)(4), by failing to maintain all water treatment units, storage and pressure maintenance facilities, distribution system lines, and related appurtenances in a watertight condition and free of excessive solids; PENALTY: \$250; ENFORCEMENT COORDINATOR: Tessa Bond, (512) 239-1269; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

TRD-202500284

Gitanjali Yadav

Deputy Director, Litigation Division

Texas Commission on Environmental Quality

Filed: January 28, 2025



### Notice of a Public Meeting and a Proposed Renewal with Amendment of General Permit WQG100000 Authorizing the Disposal of Wastewater

The Texas Commission on Environmental Quality (TCEQ or commission) is proposing to renew and amend State Only General Permit No. WQG100000. This general permit authorizes wastewater generated by industrial or water treatment facilities to be disposed of by evaporation from surface impoundments adjacent to water in the state. This general permit does not authorize the discharge of wastewater into water in the state. The draft general permit applies to the entire state of Texas. General permits are authorized by Texas Water Code, §26.040.

**DRAFT GENERAL PERMIT.** The executive director has prepared a draft general permit renewal with amendments of an existing general permit that authorizes wastewater generated by industrial or water treatment facilities to be disposed of by evaporation from surface impoundments adjacent to water in the state. This general permit does not authorize the discharge of wastewater into water in the state. No significant degradation of high quality waters is expected and existing uses will be maintained and protected. The executive director proposes to require regulated entities to submit a Notice of Intent to obtain authorization under the general permit.

The executive director has reviewed this action for consistency with the goals and policies of the Texas Coastal Management Program (CMP) according to General Land Office regulations and has determined that the action is consistent with applicable CMP goals and policies.

On the date that this notice is published, a copy of the draft general permit and fact sheet will be available for a minimum of 30 days for viewing and copying at the TCEQ Office of the Chief Clerk located at the TCEQ Austin office, at 12100 Park 35 Circle, Building F. These documents will also be available at the TCEQ's 16 regional offices and on the TCEQ website at <https://www.tceq.texas.gov/permitting/wastewater/general/index.html>.

**PUBLIC COMMENT AND PUBLIC MEETING.** You may submit public comments on this proposed general permit in writing or orally at the public meeting held by the TCEQ. The purpose of a public meeting is to provide the opportunity to submit written or oral comment or to ask questions about the proposed general permit. A public meeting is not a contested case hearing.

The hybrid in-person and virtual public meeting will be held at 9:30 a.m., March 10, 2025, in TCEQ's complex at 12100 Park 35 Circle, Building F, Room 2210, Austin, Texas 78753.

Information for registering and attending the public meeting virtually is available at <https://www.tceq.texas.gov/permitting/wastewater/general/index.html>.

Written public comments must be received by the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087 or electronically at <https://www14.tceq.texas.gov/epic/eComment/> within 30 days from the date this notice is published.

**ALTERNATIVE LANGUAGE NOTICE.** Alternative language notice in Spanish is available at <https://www.tceq.texas.gov/permitting/wastewater/general/index.html>. El aviso de idioma alternativo en español está disponible en <https://www.tceq.texas.gov/permitting/wastewater/general/index.html>.

**APPROVAL PROCESS.** After the comment period, the executive director will consider all the public comments and prepare a written response. The response will be filed with the TCEQ Office of the Chief Clerk at least 10 days before the scheduled commission meeting when the commission will consider approval of the general permit. The commission will consider all public comment in making its decision and will either adopt the executive director's response or prepare its own response. The commission will issue its written response on the general permit at the same time the commission issues or denies the general permit. A copy of any issued general permit and response to comments will be made available to the public for inspection at the agency's Austin office. A notice of the commissioners' action on the draft general permit and information on how to access the response to comments will be mailed to each person who submitted a comment. Also, a notice of the commission's action on the draft general permit and the text of its response to comments will be published in the *Texas Register*.

**MAILING LISTS.** In addition to submitting public comments, you may ask to be placed on a mailing list to receive future public notices mailed by the TCEQ Office of the Chief Clerk. You may request to be added to: 1) the mailing list for this specific general permit; 2) the permanent mailing list for a specific county; or 3) both. Clearly specify the mailing lists to which you wish to be added and send your request to the TCEQ Office of the Chief Clerk at the address previously mentioned. Unless you otherwise specify, you will be included only on the mailing list for this specific general permit.

**INFORMATION.** If you need more information about this general permit or the permitting process, please call the TCEQ Public Education Program, toll free, at 1 (800) 687-4040. General information about the TCEQ can be found at our website at: <https://www.tceq.texas.gov>.

Persons with disabilities who need special accommodations at the public meeting should call the Office of the Chief Clerk at (512) 239-3300 or 1-800-RELAY-TX (TDD) at least one week prior to the meeting.

Further information may also be obtained by calling Shannon Gibson, TCEQ Water Quality Division, at (512) 239-4284.

*Si desea información en español, puede llamar 1 (800) 687-4040.*

TRD-202500280

Charmaine K. Backens

Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: January 27, 2025



Notice of Correction to Agreed Order Number 7 (0129T)

In the October 25, 2024, issue of the *Texas Register* (49 TexReg 8603), the Texas Commission on Environmental Quality (commission) published notice of Agreed Orders, specifically Item Number 7, for City of Hitchcock; Docket Number 2022-1112-MWD-E. The error is as submitted by the commission.

The reference to the Docket Number should be corrected to read: "2022-1112-WQ-E."

The reference to the penalty should be corrected to read: "\$13,100."

The reference to the Supplemental Environmental Project Offset Amount should be corrected to read: "\$10,480."

For questions concerning these errors, please contact Michael Parrish at (512) 239-2548.

TRD-202500286

Gitanjali Yadav

Deputy Director, Litigation Division

Texas Commission on Environmental Quality

Filed: January 28, 2025



Notice of Correction to Agreed Order Number 24

In the October 4, 2024, issue of the *Texas Register* (49 TexReg 8198), the Texas Commission on Environmental Quality (commission) published notice of Agreed Orders, specifically Item Number 24, for TATUM EXCAVATING COMPANY, INCORPORATED; Docket Number 2024-0262-WQ-E. The error is as submitted by the commission.

The reference to the penalty should be corrected to read: "\$28,400."

For questions concerning the error, please contact Michael Parrish at (512) 239-2548.

TRD-202500285

Gitanjali Yadav

Deputy Director, Litigation Division

Texas Commission on Environmental Quality

Filed: January 28, 2025



Notice of District Petition - TCEQ Internal Control No. D-12172024-032

Notice issued January 23, 2025 TCEQ Internal Control No. D-12172024-032: MTR Indigo Trails LLC and Quadvest LP, (Petitioners) filed a petition for creation of Harris County Municipal Utility District No. 600 (District) of Harris County with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, §59 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The petition states that: (1) the Petitioners hold title to a majority in value of the land to be included in the proposed District; (2) there are no lienholders on the property to be included in the proposed District; (3) the proposed District will contain approximately 188.476 acres located within Harris County, Texas; and (4) none of the land within the proposed District is within the corporate limits or extraterritorial jurisdiction of any city. The petition further states that the proposed District will: (1) purchase, construct, acquire, maintain, own, operate, repair, improve, and extend waterworks and sanitary sewer systems for residential and commercial purposes; (2) construct, acquire, improve, extend, maintain, and operate works, improvements, facilities, plants, equipment, and appliances helpful or necessary to

provide more adequate drainage for the proposed District; (3) control, abate, and amend local storm waters or other harmful excesses of water in the proposed District; (4) and purchase, construct, acquire, improve, maintain, and operate such additional facilities, systems, plants, enterprises, road facilities, and park and recreational facilities as shall be consistent with all of the purposes for which the proposed District is created.

According to the petition, a preliminary investigation has been made to determine the cost of the project, and it is estimated by the Petitioners that the cost of said project will be approximately \$33,215,000 (\$23,935,000 for water, wastewater, and drainage plus \$6,770,000 for recreation plus \$2,510,000 for roads).

#### INFORMATION SECTION

To view the complete issued notice, view the notice on our website at [www.tceq.texas.gov/agency/cc/pub\\_notice.html](http://www.tceq.texas.gov/agency/cc/pub_notice.html) or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the website, type in the issued date range shown at the top of this document to obtain search results. The TCEQ may grant a contested case hearing on the petition if a written hearing request is filed within 30 days after the newspaper publication of the notice. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the Petitioner and the TCEQ Internal Control Number; (3) the statement "I/we request a contested case hearing"; (4) a brief description of how you would be affected by the petition in a way not common to the general public; and (5) the location of your property relative to the proposed District's boundaries. You may also submit your proposed adjustments to the petition. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below. The Executive Director may approve the petition unless a written request for a contested case hearing is filed within 30 days after the newspaper publication of this notice. If a hearing request is filed, the Executive Director will not approve the petition and will forward the petition and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court. Written hearing requests should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Districts Review Team, at (512) 239-4691. Si desea información en español, puede llamar al (512) 239-0200. General information regarding TCEQ can be found at our website at [www.tceq.texas.gov](http://www.tceq.texas.gov).

TRD-202500301

Laurie Gharis  
Chief Clerk  
Texas Commission on Environmental Quality  
Filed: January 29, 2025



#### Notice of Opportunity to Comment on Agreed Orders of Administrative Enforcement Actions

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) in accordance with Texas Water Code (TWC), §7.075. TWC, §7.075, requires that before the commission may approve the AOs, the commission shall allow the public an opportunity to submit written comments on the proposed AOs. TWC,

§7.075, requires that notice of the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **March 11, 2025**. TWC, §7.075, also requires that the commission promptly consider any written comments received and that the commission may withdraw or withhold approval of an AO if a comment discloses facts or considerations that indicate that consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed AO is not required to be published if those changes are made in response to written comments.

A copy of each proposed AO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building A, 3rd Floor, Austin, Texas 78753, (512) 239-3400 and at the applicable regional office listed as follows. Written comments about an AO should be sent to the attorney designated for the AO at the commission's central office at P.O. Box 13087, MC 175, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on March 11, 2025**. The designated attorney is available to discuss the AOs and/or the comment procedure at the listed phone number; however, TWC, §7.075, provides that comments on an AO shall be submitted to the commission in **writing**.

(1) COMPANY: Canyon Lake Estates Water Supply Corporation; DOCKET NUMBER: 2023-0258-UTL-E; TCEQ ID NUMBER: RN101220309; LOCATION: 1403 Fuller Drive, Canyon Lake, Comal County; TYPE OF FACILITY: retail public utility, exempt utility, or provider or conveyor of potable or raw water service; RULE VIOLATED: TWC, §13.1394(b)(2), by failing to submit to TCEQ for approval an emergency preparedness plan ("EPP") that demonstrates the Utility's ability to provide emergency operations; PENALTY: \$645; STAFF ATTORNEY: Allison Alt, Litigation, MC 175, (512) 239-6944; REGIONAL OFFICE: San Antonio Regional Office, 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(2) COMPANY: WOODLAKE-JOSSERAND WATER SUPPLY CORPORATION; DOCKET NUMBER: 2023-0193-UTL-E; TCEQ ID NUMBER: RN101452621; LOCATION: 4025 East United States Highway 287 near Woodlake, Trinity County; TYPE OF FACILITY: retail public utility, exempt utility, or provider or conveyor of potable or raw water service; RULE VIOLATED: TWC, §13.1394(b)(2), by failing to adopt and submit to TCEQ for approval an emergency preparedness plan (EPP) that demonstrates the Utility's ability to provide emergency operations; PENALTY: \$725; STAFF ATTORNEY: Allison Alt, Litigation, MC 175, (512) 239-6944; REGIONAL OFFICE: Beaumont Regional Office, 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

TRD-202500290

Gitanjali Yadav  
Deputy Director, Litigation  
Texas Commission on Environmental Quality  
Filed: January 28, 2025



#### Update to the Water Quality Management Plan (WQMP)

The Texas Commission on Environmental Quality (TCEQ or commission) requests comments from the public on the draft January 2025 Update to the WQMP for the State of Texas.

Download the draft January 2025 WQMP Update at [https://www.tceq.texas.gov/permitting/wqmp/WQmanagement\\_up-](https://www.tceq.texas.gov/permitting/wqmp/WQmanagement_up-)



[dates.html](#) or view a printed copy at the TCEQ Library, Building A, 12100 Park 35 Circle, Austin, Texas.

The WQMP is developed and promulgated in accordance with the requirements of the federal Clean Water Act, Section 208. The draft update includes projected effluent limits of specific domestic dischargers, which may be useful for planning in future permit actions. The draft update may also contain service area populations for listed wastewater treatment facilities, designated management agency information, and total maximum daily load (TMDL) revisions.

Once the commission certifies a WQMP update, it is submitted to the United States Environmental Protection Agency (EPA) for approval. For some Texas Pollutant Discharge Elimination System (TPDES) permits, the EPA's approval of a corresponding WQMP update is a necessary precondition to TPDES permit issuance by the commission.

#### **Deadline**

All comments must be received at the TCEQ no later than **5:00 p.m. on March 11, 2025**.

#### **How to Submit Comments**

Comments must be submitted in writing to:

Maria Benitez

Texas Commission on Environmental Quality

Water Quality Division, MC 148

P.O. Box 13087

Austin, Texas 78711-3087

Comments may also be faxed to (512) 239-4420 or emailed to Maria Benitez at [Maria.Benitez@tceq.texas.gov](mailto:Maria.Benitez@tceq.texas.gov) but must be followed up with written comments by mail within five working days of the fax or email date or by the comment deadline, whichever is sooner.

For further information, or questions, please contact Ms. Benitez at (512) 239-6705 or by email at [Maria.Benitez@tceq.texas.gov](mailto:Maria.Benitez@tceq.texas.gov).

TRD-202500287

Charmaine Backens

Deputy Director, Environmental

Texas Commission on Environmental Quality

Filed: January 28, 2025



### **General Land Office**

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

On January 10, 1997, the State of Texas received federal approval of the Coastal Management Program (CMP) (62 *Federal Register* pp. 1439 - 1440). Under federal law, federal agency activities and actions affecting the Texas coastal zone must be consistent with the CMP goals and policies identified in 31 TAC Chapter 26. Requests for federal consistency review were deemed administratively complete for the following project(s) during the period of, January 13, 2025 to January 17, 2025. As required by federal law, the public is given an opportunity to comment on the consistency of proposed activities in the coastal zone undertaken or authorized by federal agencies. Pursuant to 31 TAC §§30.20(f), 30.30(h), and 30.40(e), the public comment period extends 30 days from the date published on the Texas General Land Office web site. The notice was published on the web site on Friday, January 31, 2025. The public comment period for this project will close at 5:00 p.m. on Sunday, February 30, 2025.

Federal Agency Activities:

**Applicant:** National Oceanic and Atmospheric Administration

**Location:** The project alternatives are located along the coast of Texas.

**Project Description:** The Deepwater Horizon (DWH) Oil Spill Texas Trustee Implementation Group (TIG) is comprised of federal and state Trustees: the U.S. Department of the Interior (DOI), the National Oceanic and Atmospheric Administration (NOAA), the U.S. Department of Agriculture (USDA), the U.S. Environmental Protection Agency (EPA), Texas Parks and Wildlife Department, Texas General Land Office, and Texas Commission on Environmental Quality. The Texas TIG is proposing seven preferred Wetlands, Coastal, and Nearshore Habitats Restoration projects for implementation:

- Anahuac NWR Roberts Mueller Tract Wetland Restoration
- Goose Island Wetland Restoration
- Lower Neches WMA Old River Unit Wetland Restoration
- McFaddin NWR Willow Lake Terraces Wetland Restoration
- San Bernard NWR Sargent Oil Field Wetland Restoration
- Schicke Point Wetland Restoration
- Texas Point NWR Wetland Restoration

**Type of Application:** Draft Restoration Plan/Environmental Assessment titled: "Deepwater Horizon Oil Spill Texas Trustee Implementation Group Draft Restoration Plan/Environmental Assessment #3: Restoration of Wetlands, Coastal, and Nearshore Habitats" (Draft RP/EA #3).

**CMP Project No:** 25-1105-F2

Further information on the applications listed above, including a copy of the consistency certifications or consistency determinations for inspection, may be obtained from the Texas General Land Office Public Information Officer at 1700 N. Congress Avenue, Austin, Texas 78701, or via email at [pialegal@glo.texas.gov](mailto:pialegal@glo.texas.gov). Comments should be sent to the Texas General Land Office Coastal Management Program Coordinator at the above address or via email at [federal.consistency@glo.texas.gov](mailto:federal.consistency@glo.texas.gov).

TRD-202500289

Jennifer Jones

Chief Clerk and Deputy Land Commissioner

General Land Office

Filed: January 28, 2025



### **Texas Health and Human Services Commission**

Notice of Public Hearing on Proposed Rule Amendments for Reimbursement Methodology for Physician and Other Practitioners, and Reimbursement Methodologies for Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Services

Hearing. The Texas Health and Human Services Commission (HHSC) will conduct a public hearing on February 24, 2025, at 9:00 a.m., to receive public comments on proposed rule amendments to 1 Texas Administrative Code (TAC) §355.8085, Reimbursement Methodology for Physicians and Other Practitioners; and §355.8441, Reimbursement Methodologies for Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Services (also known as Texas Health Steps).

This hearing will be conducted online only. There is not a physical location for this hearing. To join the hearing from your computer, tablet,

or smartphone, register for the hearing in advance using the following link:

<https://attendee.gotowebinar.com/register/8175257524806765909>

After registering, you will receive a confirmation email containing information about joining the webinar. Instructions for dialing-in by phone will be provided after you register.

If you are new to GoToWebinar, please download the GoToMeeting app at <https://global.gotomeeting.com/install/626873213> before the hearing starts.

A recording of the hearing will be archived and can be accessed on-demand at <https://hhs.texas.gov/about-hhs/communications-events/live-archived-meetings>.

Proposal. The rule amendments to 1 TAC §355.8085, Reimbursement Methodology for Physicians and Other Practitioners; and §355.8441, Reimbursement Methodologies for EPSDT Services, are proposed to be effective May 14, 2025.

Briefing Packet: Interested parties may obtain a copy of the proposed preamble and rule amendments in the January, 31 2025, issue of the *Texas Register* at <https://www.sos.texas.gov/texreg/index.shtml> or by contacting HHSC Provider Finance by telephone at (512) 730-7401, by fax at (512) 730-7475, or by email at

Written Comments. Written comments regarding the proposed rule amendments may be submitted instead of, or in addition to, oral testimony until 11:59 p.m. on March 3, 2025. Written comments may be sent by U.S. mail to the Texas Health and Human Services Commission, Attention: Provider Finance, Mail Code H-400, P.O. Box 149030, Austin, Texas 78714-9030; by fax to Provider Finance at (512) 730-7475; or by email to [PFDAcuteCare@hhs.texas.gov](mailto:PFDAcuteCare@hhs.texas.gov). Please include "Comments on Proposed §355.8085 and §355.8441" in the subject line. In addition, written comments may be sent by overnight mail to Texas Health and Human Services Commission, Attention: Provider Finance, Mail Code H-400, North Austin Complex, 4601 W. Guadalupe St, Austin, Texas 78751.

Contact. Questions regarding the hearing or meeting arrangements should be directed to [PFDAcuteCare@hhs.texas.gov](mailto:PFDAcuteCare@hhs.texas.gov).

Persons with disabilities who wish to participate in the hearing and require auxiliary aids or services should contact Provider Finance at (512) 730-7401 at least 72 hours before the hearing so appropriate arrangements can be made.

TRD-202500291

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Filed: January 28, 2025

## Texas Department of Housing and Community Affairs

### Correction of Dates for Comment Period

The Texas Department of Housing and Community Affairs (the Department) proposed amendments to 10 TAC §§1.401, 1.403, 1.404 and 1.407 in the January 31, 2025, issue of the *Texas Register* (50 TexReg 602). Due to an error by the Department, the dates for the public comment period associated with the proposed amendments were published incorrectly. The public comment period began at 8:00 a.m. Austin local time on January 31, 2025, and ends at 5:00 p.m. Austin local time on March 4, 2025. Comments received after 5:00 p.m. Austin local time on March 4, 2025, will not be accepted.

TRD-202500294

Bobby Wilkinson

Executive Director

Texas Department of Housing and Community Affairs

Filed: January 28, 2025

## Texas Department of Insurance

### Company Licensing

Application for Agents National Title Insurance Company, a foreign title company, to change its name to Essent Title Insurance, Inc. The home offices is in Columbia, Missouri.

Application to do business in the state of Texas for HiRoad Assurance Company, a foreign fire and/or casualty company. The home office is in Bloomington, Illinois.

Application for incorporation in the state of Texas for CopperGuard Insurance Company, a domestic fire and/or casualty company. The home office is in Westlake, Texas.

Application for American Mercury Lloyds Insurance Company, a domestic fire and/or casualty company, to change its name to Mercury Insurance Company of Texas. The home office is in Austin, Texas.

Application for Central Mutual Insurance Company, a foreign fire and/or casualty company, to change its name to Central Insurance Company. The home office is in Van Wert, Ohio.

Application for incorporation in the state of Texas for The Homeowners Reciprocal Exchange, a domestic reciprocal. The home office is in Houston, Texas.

Any objections must be filed with the Texas Department of Insurance, within twenty (20) calendar days from the date of the *Texas Register* publication, addressed to the attention of Andrew Guerrero, 1601 Congress Ave., Suite 6.900, Austin, Texas 78711.

TRD-202500200

Justin Beam

Chief Clerk

Texas Department of Insurance

Filed: January 22, 2025

## Texas Department of Licensing and Regulation

### Notice of Vacancies on Texas Water Well Drillers Advisory Council

The Texas Department of Licensing and Regulation (Department) announces two vacancies on the Texas Water Well Drillers Advisory Council (Council) established by the Texas Occupations Code, Chapter 1901. The pertinent rules may be found in 16 TAC §76.65. The purpose of the Council is to advise the Texas Commission of Licensing and Regulation (Commission) on the contents of the licensing examination, the evaluation and recommendation of standards for continuing education programs, and rules for adoption by the Commission relating to the regulation of drillers registered under this chapter. Service as a Board member is voluntary, and compensation is not authorized by law. **This announcement is for:**

- two public members.

Members serve staggered six-year terms expiring September 15. The Council is composed of nine members appointed by the presiding officer of the Commission, with the approval of the Commission. The Council consists of the following:

1. six licensed drillers who are residents of this state. One driller shall be selected from the state at large and one of each of the remaining five drillers shall be selected from the:

- a. Gulf Coast,
  - b. Trans-Pecos,
  - c. Central Texas,
  - d. Northeast Texas, and
  - e. Panhandle-South Plains areas; and
2. three members must be representatives of the public.

A person is not eligible for public membership if the person or the person's spouse is licensed by an occupational regulatory agency in the field of well drilling, or is employed by, participates in the management of, or has, other than as a consumer, a financial interest in a business entity or other organization related to the field of well drilling.

Interested persons should submit an application on the Department website at: <https://www.tdlr.texas.gov/AdvisoryBoard/login.aspx>. Applicants can also request an application from the Department by e-mail at [advisory.boards@tdlr.texas.gov](mailto:advisory.boards@tdlr.texas.gov).

**These are not paid positions and there is no compensation or reimbursement for serving on the Council.**

Issued in Austin, Texas this February 7, 2025.

TRD-202500288

Courtney Arbour

Executive Director

Texas Department of Licensing and Regulation

Filed: January 28, 2025

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## North Central Texas Council of Governments

### Request for Proposals RAISE FY21 EV Charging Stations

The North Central Texas Council of Governments (NCTCOG) is requesting written proposals from qualified vendors for up to five (5) DC Fast Charge electric vehicle charging stations to support light-duty cut-away electric transit buses in the Southern Dallas County Inland Port area. Services to include manufacture, delivery, installation, and ongoing maintenance and operations in a turn-key service of the charging infrastructure.

Proposals must be received in-hand no later than **5:00 p.m., Central Time**, on Friday, March 7, 2025, to Gypsy Gavia, Program Manager, North Central Texas Council of Governments, 616 Six Flags Drive, Arlington, Texas 76011 and electronic submissions to [TransRFPs@nctcog.org](mailto:TransRFPs@nctcog.org). The Request for Proposals will be available at [www.nctcog.org/rfp](http://www.nctcog.org/rfp) by the close of business on **Friday, February 7, 2025**.

NCTCOG encourages participation by disadvantaged business enterprises and does not discriminate on the basis of age, race, color, religion, sex, national origin, or disability.

TRD-202500299

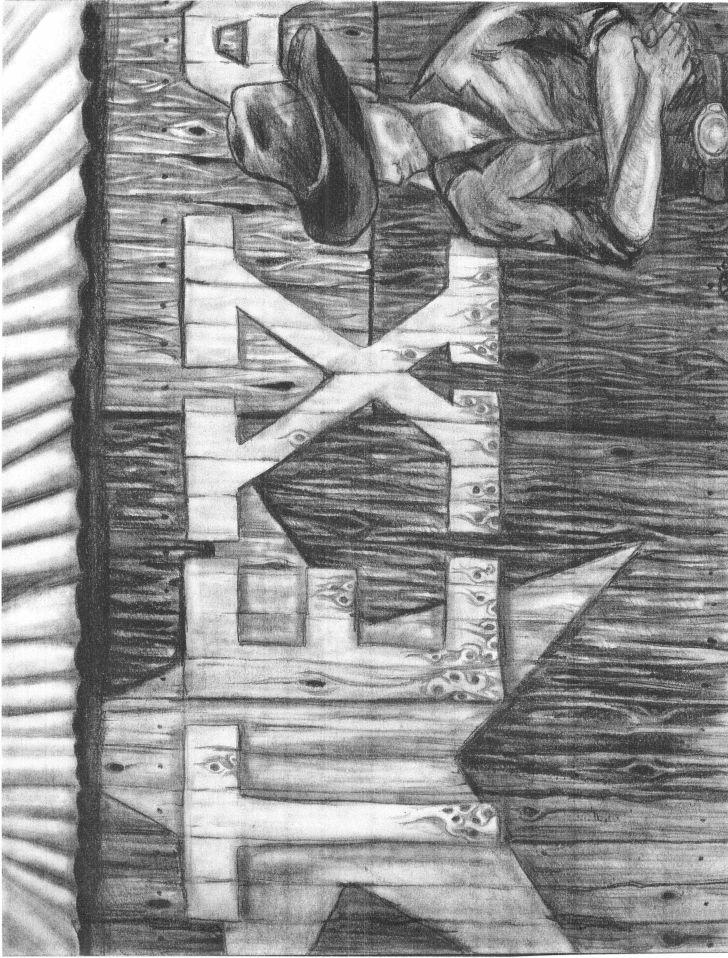
Mike Eastland

Executive Director

North Central Texas Council of Governments

Filed: January 29, 2025

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## How to Use the Texas Register

**Information Available:** The sections of the *Texas Register* represent various facets of state government. Documents contained within them include:

**Governor** - Appointments, executive orders, and proclamations.

**Attorney General** - summaries of requests for opinions, opinions, and open records decisions.

**Texas Ethics Commission** - summaries of requests for opinions and opinions.

**Emergency Rules** - sections adopted by state agencies on an emergency basis.

**Proposed Rules** - sections proposed for adoption.

**Withdrawn Rules** - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after the proposal publication date.

**Adopted Rules** - sections adopted following public comment period.

**Texas Department of Insurance Exempt Filings** - notices of actions taken by the Texas Department of Insurance pursuant to Chapter 5, Subchapter L of the Insurance Code.

**Review of Agency Rules** - notices of state agency rules review.

**Tables and Graphics** - graphic material from the proposed, emergency and adopted sections.

**Transferred Rules** - notice that the Legislature has transferred rules within the *Texas Administrative Code* from one state agency to another, or directed the Secretary of State to remove the rules of an abolished agency.

**In Addition** - miscellaneous information required to be published by statute or provided as a public service.

Specific explanation on the contents of each section can be found on the beginning page of the section. The division also publishes cumulative quarterly and annual indexes to aid in researching material published.

**How to Cite:** Material published in the *Texas Register* is referenced by citing the volume in which the document appears, the words "TexReg" and the beginning page number on which that document was published. For example, a document published on page 2402 of Volume 50 (2025) is cited as follows: 50 TexReg 2402.

In order that readers may cite material more easily, page numbers are now written as citations. Example: on page 2 in the lower-left hand corner of the page, would be written "50 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 50 TexReg 3."

**How to Research:** The public is invited to research rules and information of interest between 8 a.m. and 5 p.m. weekdays at the *Texas Register* office, James Earl Rudder Building, 1019 Brazos, Austin. Material can be found using *Texas Register* indexes, the *Texas Administrative Code* section numbers, or TRD number.

Both the *Texas Register* and the *Texas Administrative Code* are available online at: <https://www.sos.texas.gov>. The *Texas Register* is available in an .html version as well as a .pdf version through the internet. For website information, call the Texas Register at (512) 463-5561.

## Texas Administrative Code

The *Texas Administrative Code (TAC)* is the compilation of all final state agency rules published in the *Texas Register*. Following its effective date, a rule is entered into the *Texas Administrative Code*. Emergency rules, which may be adopted by an agency on an interim basis, are not codified within the *TAC*.

The *TAC* volumes are arranged into Titles and Parts (using Arabic numerals). The Titles are broad subject categories into which the agencies are grouped as a matter of convenience. Each Part represents an individual state agency.

The complete *TAC* is available through the Secretary of State's website at <http://www.sos.state.tx.us/tac>.

The Titles of the *TAC*, and their respective Title numbers are:

1. Administration
4. Agriculture
7. Banking and Securities
10. Community Development
13. Cultural Resources
16. Economic Regulation
19. Education
22. Examining Boards
25. Health Services
28. Insurance
30. Environmental Quality
31. Natural Resources and Conservation
34. Public Finance
37. Public Safety and Corrections
40. Social Services and Assistance
43. Transportation

**How to Cite:** Under the *TAC* scheme, each section is designated by a *TAC* number. For example in the citation 1 TAC §91.1: 1 indicates the title under which the agency appears in the *Texas Administrative Code*; *TAC* stands for the *Texas Administrative Code*; §91.1 is the section number of the rule (91 indicates that the section is under Chapter 91 of Title 1; 1 represents the individual section within the chapter).

**How to Update:** To find out if a rule has changed since the publication of the current supplement to the *Texas Administrative Code*, please look at the *Index of Rules*.

The *Index of Rules* is published cumulatively in the blue-cover quarterly indexes to the *Texas Register*.

If a rule has changed during the time period covered by the table, the rule's *TAC* number will be printed with the *Texas Register* page number and a notation indicating the type of filing (emergency, proposed, withdrawn, or adopted) as shown in the following example.

### TITLE 1. ADMINISTRATION Part 4. Office of the Secretary of State Chapter 91. Texas Register

1 TAC §91.1.....950 (P)

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