

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 19. EDUCATION

PART 1. TEXAS HIGHER EDUCATION COORDINATING BOARD

CHAPTER 13. FINANCIAL PLANNING SUBCHAPTER Q. FINANCIAL AID FOR SWIFT TRANSFER (FAST) PROGRAM

19 TAC §13.501, §13.503

The Texas Higher Education Coordinating Board (Coordinating Board) proposes amendments to Texas Administrative Code, Title 19, Part 1, Chapter 13, Subchapter Q, §13.501 and §13.503, concerning the Financial Aid for Swift Transfer (FAST) Program. Specifically, this amendment will expand eligibility for the program to include current educationally disadvantaged students who were not educationally disadvantaged in the prior four years, students enrolled in Windham School District high schools, and students who graduated high school but remain enrolled in Pathways in Technology Early College High School (P-TECH) and Rural Pathway Excellence Partnership (R-PEP) programs. The proposed amendments implement the provisions of House Bill 120 and Senate Bill 1786, 89th Texas Legislature. The Coordinating Board is authorized by Texas Education Code, §28.0095, to adopt rules as necessary to administer the FAST program.

Rule 13.501, Definitions, is amended by clarifying that for the purposes of the subchapter, the term "school district" includes the Windham School District. This conforms to statutory changes made in Senate Bill 1786, 89th Texas Legislature.

Rule 13.503, Eligible Students, is amended to reflect changes in FAST eligibility during the 89th Texas Legislature, as well as to improve administration of the program. Subsection (a)(1) is amended to change the reference from Texas Education Agency rules to state law, because Windham School District students are funded by the Foundation School Program (FSP) pursuant to Texas Education Code, §19.005. Subsection (a)(3), is amended to allow for a student to establish eligibility for FAST based on educationally disadvantaged status in the current year of enrollment, even if the student was not educationally disadvantaged in the prior four years. This conforms to statutory changes made in Senate Bill 1786, 89th Texas Legislature, amending Texas Education Code, §28.0095(c)(1).

Subsections (b) and (c) are amended to provide greater clarity regarding school districts' and institutions' responsibilities for confirming eligibility of students who were not educationally disadvantaged in the four years preceding enrollment in a dual credit course but are educationally disadvantaged in the current year. Subsection (b)(2) provides for direct notice by school districts to participating institutions, accounting for the fact that

neither the Coordinating Board nor the Texas Education Agency would have available data to confirm the eligibility of these students. Subsection (c)(2) is added to note that a school district's notice to participating institutions regarding these students does not need to be confirmed by the Coordinating Board through the current verification process.

Subsection (d) is added to allow for more consistent administration of the program. The inclusion of students who are, but were not previously, educationally disadvantaged adds a layer of administrative complexity to the program. By aligning the eligibility determination process with the institution's census date, the new subsection allows participating institutions to have a predictable timeline for understanding their financial commitments relating to FAST.

Subsection (e) is added to clarify the meaning of high school enrollment in the context of FAST. Subsection (e)(1) codifies current practice and aligns with statute by defining high school as grade levels 9 through 12. Subsection (e)(2), based on House Bill 120, defines two enrollment situations in which a student who has already graduated from high school may still be eligible for the FAST program.

Dr. Charles W. 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 W. 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 expanded access to and improved administration of the FAST program. 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 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 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 the proposal in the *Texas Register*.

The amendment is proposed under Texas Education Code, Section 28.0095, which provides the Coordinating Board with the authority to adopt rules as necessary to administer the FAST program.

The proposed amendment affects Texas Administrative Code, Chapter 13 and Chapter 4; and Texas Education Code, Chapter 19; Chapter 29, Subchapter N; and Sections 28.009, 28.0095, and 130.008.

§13.501. Definitions.

In addition to the words and terms defined in §13.1 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. In the event of conflict, the definitions in this subchapter shall control.

- (1) Career and Technical Education Course--As defined in §4.83 of this title (relating to Definitions).
- (2) Credit--As defined in §4.83 of this title (relating to Definitions).
- (3) Dual Credit Course--As defined in §4.83 of this title (relating to Definitions).
- (4) Educationally Disadvantaged--As defined in Texas Education Code, §5.001(4), eligible to participate in the national free or reduced-price lunch program.
- (5) Equivalent of a Semester Credit Hour--As defined in §4.83 of this title (relating to Definitions).
- (6) Program--The Financial Aid for Swift Transfer (FAST) Program.
- (7) School District--As defined in §4.83 of this title (relating to Definitions). For the purposes of this subchapter, the term includes the Windham School District.

(8) School Year--The twelve month-period of high school enrollment starting in August.

(9) Semester Credit Hour--As defined in §4.83 of this title (relating to Definitions).

§13.503. Eligible Students.

(a) A student is eligible to enroll at no cost to the student in a dual credit course under the program if the student:

- (1) is enrolled in a high school and eligible for Foundation School Program funding [at a high school] in a Texas school district under state law [the rules of the Texas Education Agency];

(2) is enrolled in a dual credit course at a participating institution of higher education that has entered into a Dual Credit Agreement with the student's school district as set out in §4.84 of this title (relating to Institutional Agreements); and

(3) is certified to the institution by the student's school district or other means authorized by rule as being educationally disadvantaged:

(A) during the year in which the student is enrolled in a dual credit course described by paragraph (2) of this subsection; or

(B) at any time during the four school years preceding the year in which the student is enrolled in a dual credit course described by paragraph (2) of this subsection.

~~[(3) was educationally disadvantaged at any time during the four school years preceding the student's enrollment in the dual credit course described by paragraph (2) of the subsection, as certified to the institution by the eligible student's school district, or other means authorized by rule.]~~

(b) Notice of Educationally Disadvantaged Status.

(1) A school district's notice to the institution regarding a student's status as educationally disadvantaged in any of the four years preceding the year in which the student is enrolled in a dual credit course shall occur through the school district's notice to the Texas Education Agency, unless otherwise provided by rule.

(2) A school district shall provide notice directly to the institution regarding a student's educationally disadvantaged status if the student is educationally disadvantaged in the year in which the student is enrolled in a dual credit course but was not educationally disadvantaged in any of the four preceding years.

(c) Institutional Responsibilities.

(1) A participating institution shall submit to the Coordinating Board identifying information, as outlined by the Coordinating Board, for students registered for or enrolled in dual credit courses. The Coordinating Board will compare the identifying information to data provided by the Texas Education Agency and will notify the institution as to which students fulfill the requirement outlined in subsection (a)(3)(B) of this section.

(2) Because the Texas Education Agency and Coordinating Board will not have data available to make eligibility determinations regarding students reported under subsection (b)(2) of this section, an institution shall consider these students eligible to enroll at no cost in a dual credit course without confirmation from the Coordinating Board under this subsection.

(d) Notwithstanding subsection (a) of this section, a student is not considered eligible to enroll at no cost to the student in a dual credit course under the program for the current semester or term if the certification described by subsection (a)(3) of this section is made after the institution's census date, as defined in §13.1 of this subchapter (relating to Definitions).

(e) For the purposes of this section, a student is considered to be enrolled in a high school if the student:

(1) is enrolled in grade levels 9 through 12 in a school in a Texas school district; or

(2) has graduated from high school but is:

(A) enrolled in a school district at a campus designated as a Pathways in Technology Early College High School (P-TECH) school under Texas Education Code, §29.556, or in a school district

participating in a Rural Pathway Excellence Partnership (R-PEP) under Texas Education Code, §29.912; and

(B) completing a course of study offered through an institutional agreement in accordance §4.84 of this title (relating to Institutional Agreements) with an institution of higher education under one of the programs described in subparagraph (A) of this paragraph.

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 June 2, 2025.

TRD-202501893

Nichole Bunker-Henderson

General Counsel

Texas Higher Education Coordinating Board

Earliest possible date of adoption: July 13, 2025

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



SUBCHAPTER R. STATE PUBLIC JUNIOR COLLEGE FINANCE PROGRAM REPORTING, AUDIT, AND OVERALLOCATION

19 TAC §§13.522, 13.524, 13.525, 13.527 - 13.529

The Texas Higher Education Coordinating Board (Coordinating Board) proposes amendments to Texas Administrative Code, Title 19, Part 1, Chapter 13, Subchapter R, §§13.522, 13.524, 13.525, and 13.527 - 13.529 concerning State Public Junior College Finance Program Reporting, Audit, and Overallocation. Specifically, these amendments will clarify the bounds on corrections to data that are used in calculating community college formula funding. These time limits improve the administrability of the community college funding program and limit ongoing, unpredictable liabilities on state funds by restricting how far back in time data error corrections may occur while maintaining an appropriate process for recovery of funding overallocations. These amendments will also change reporting deadlines for the Report of Fundable Operating Expenses (RFOE) and the Annual Financial Reporting data in Community College Reporting Analysis Tool (CARAT) to ensure that data are submitted in time to meet federal reporting requirements. These amendments also remove references to Chapter 13, Subchapter P, which has been repealed as Subchapter P only applied to fiscal year 2024, and adopt certain reporting manuals by reference, as authorized by Senate Bill 1786, 89th Texas Legislature, Regular Session, in order to formalize data reporting standards necessary for proper financial administration.

Rule 13.522, Definitions, is amended to remove references to Subchapter P across multiple definitions. This reference is no longer valid, as Subchapter P was in place to govern the community college finance program for fiscal year 2024. Subchapter P was repealed at the April 2025 Board meeting. New references to manuals adopted by reference are added.

Rule 13.524, Required Reporting, is amended to change the reporting deadline for the Report of Fundable Operating Expenses and the data reported in the Community College Reporting Analysis Tool from January 31 to December 31. This will ensure that data is submitted in a timely manner in order to meet federal reporting deadlines. New references to manuals adopted by reference are added.

Subsection (g) is added to specify that the Coordinating Board has adoption by reference authority to formalize data reporting standards and manuals that are necessary for the administration of the community college finance program.

Rule 13.525, Commissioner Review of Required Reporting; Data Reporting Errors, is amended to prevent corrections to data not used for funding from requiring the same level of process and review as is necessary when data corrections have financial consequences. It is also amended to enable the review and correction and data reporting errors that may have affected formula funding calculations for a payment occurring up to seven years ago.

Rule 13.527, Records Retention, is amended to specify the record retention policy. This will ensure that records are retained for a period of seven years beginning the last time the records are a direct input to formula funding calculations.

Rule 13.528, Recovery of Overallocated Funds, is amended to specify that the Coordinating Board shall recover overallocations of funding for up to seven years after an erroneous payment was made.

Rule 13.529, Payment of Under-allocated Funds, is amended to limit the period during which correction of an institution's data reporting error can result in additional funding for the institution to one year after the data's certification date. It is also amended to limit the payment of additional funding to an institution as a result of any error to the close-out process for the affected funding year(s).

Andy MacLaurin, Assistant Commissioner for Funding, 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 for Funding, 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 clarity on the bounds within which corrections to data used in community college formula funding affect funding. 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. 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 require reporting to implement the Public Junior College State Finance Program.

The proposed amendment affects Texas Education Code, Section 130A.006.

§13.522. Definitions.

The following words and terms, when used in this subchapter, shall have the following meanings:

(1) **Audit**--An engagement to audit the program conducted by the Coordinating Board's Internal Auditor and internal audit or compliance monitoring staff pursuant to either Texas Education Code, §§130A.006(4) or 61.035. This term may include a site visit, desk review, or examination of the institution's use of funds allocated by the Coordinating Board and data reported to the Coordinating Board. The term includes auditing undertaken to obtain evidence to sufficiently examine or verify data submitted to the Coordinating Board to be used by the Coordinating Board for funding or policymaking decisions, including data used for formula funding allocations, to ensure the data is reported accurately.

(2) **Census Date**--~~As [Prior to September 1, 2024, as defined in subchapter P, §13.472, of this chapter (relating to Definitions). On or after September 1, 2024, as] defined in the manual adopted pursuant to §13.524(g)(2) of this subchapter (relating to Required Reporting) [subchapter S, §13.553, of this chapter (relating to Definitions)].~~

(3) **Chief Audit Executive**--The Internal Auditor hired by the Coordinating Board to perform internal auditing and compliance monitoring on behalf of the Coordinating Board pursuant to Texas Education Code, chapters 61, 130, and 130A.

(4) **Compliance Monitoring**--A risk-based audit and compliance function conducted by the Coordinating Board pursuant to either Texas Education Code, §§130A.006(4) or 61.035, for the purpose of reviewing and assessing programmatic, legal, and fiscal compliance. This function may include conducting audits, site visits, desk reviews, or other examinations, to ensure that funds allocated or distributed by the Coordinating Board are allocated, distributed, and used in accordance with applicable law and Coordinating Board rule. The function includes obtaining evidence to sufficiently examine or verify data submitted to the Coordinating Board to be used by the Coordinating Board for funding or policymaking decisions, including data used for formula funding allocations, to ensure the data is reported accurately.

(5) **Data Reporting Error**--An error in fundable certified data or other data reported by an institution to be used to calculate formula funding for a fiscal year to the Coordinating Board after May 1 of the preceding fiscal year that the Commissioner of Higher Education in his or her discretion determines may result in a material impact in the formula funding a public junior college is entitled to or received.

(6) **Desk Review**--An administrative review by the Coordinating Board that is based on information reported by an institution of higher education or a private or independent institution of higher education, including supplemental information required by the Coor-

inating Board for purposes of compliance monitoring, except that the term does not include information or accompanying notes gathered by the Coordinating Board during a site visit.

(7) **Full-Time Student Equivalent (FTSE)**--~~As [Prior to September 1, 2024, as defined in subchapter P, §13.472, of this chapter. On or after September 1, 2024, as] defined according to the manual adopted for the reporting purpose in question pursuant to §13.524(g) of this subchapter (relating to Required Reporting) [in subchapter S, §13.553, of this chapter].~~

(8) **Funding Adjustment**--Any increase or decrease in funding by the Coordinating Board to an institution of higher education based on an over- or under-allocation of funds.

(9) **Fundable Certified Data**--As defined in subchapter U of this chapter (relating to Community College Finance Program: Forecasting Methodology and Finance Policy).

(10) **Over-allocation**--The over-payment of funds to a public junior college due to a data reporting error or other error by either the institution or the Coordinating Board that results in payments beyond what the institution is due.

(11) **Public Junior College**--In this subchapter, means a public junior college, public junior college district, or community college as defined in Texas Education Code, chapters 130 or 130A, unless expressly provided otherwise.

(12) **Site Visit**--An announced or unannounced in-person visit by a representative of the Coordinating Board or its agent to an institution of higher education or a private or independent institution of higher education for the purposes of conducting an audit.

(13) **Under-allocation**--The under-payment of funds to a public junior college due to a data reporting error or other error by either the institution or the Coordinating Board that results in payments less than what the institution was owed for the fiscal year.

§13.524. Required Reporting.

(a) **Required Reporting.** A public junior college must submit data through required reporting mechanisms established by the Coordinating Board. The Coordinating Board may use information obtained through required reporting for:

- (1) calculating funding disbursed under this chapter;
- (2) providing timely data and analyses to inform management decisions by the governing body of each public junior college;
- (3) administering or evaluating the effectiveness of programs; or
- (4) auditing the program.

(b) **Financial Reporting:** The Community College Annual Reporting and Analysis Tool (CARAT) and Annual Financial Report (AFR) Reporting.

(1) **Standards.** Each public junior college must submit their Annual Financial Report (AFR) for the preceding fiscal year by January 1. The public junior college must submit the AFR following the requirements provided in the manual adopted pursuant to subsection (g)(7) of this section [Coordinating Board's Budget Requirements and Annual Financial Reporting Requirements for Texas Public Community Colleges, also known as the AFR Manual, for that fiscal year, in accordance with Texas Education Code, §61.065].

(2) **Format.** Each public junior college must report AFR data for each completed fiscal year as prescribed in the Community College Reporting and Analysis Tool (CARAT) manuals adopted pur-

suant to subsection (g)(7) and (g)(8) of this section by December 31 [January 31] of the following fiscal year.

(3) Review Process. The Commissioner of Higher Education will update the AFR Manual, as required by Texas Education Code, §61.065. The AFR Manual will conform to Governmental Accounting Standards Board (GASB) statements and guidance.

(c) Financial Reporting: Report of Fundable Operating Expenses (RFOE).

(1) Standards. Each public junior college must report all instructional expenses from each completed fiscal year for each institutional discipline and unallocated administrative expenses as defined in the RFOE manual adopted pursuant to subsection (g)(7) of this section by December 31 [January 31] of the following fiscal year.

(2) Coordinating Board staff shall use the data provided on expenses at public junior colleges to produce a study of costs for each instructional discipline each year. This study will review all expenses made by institutions for instruction and administration from all unrestricted sources of funds, including appropriated general revenue, tuition and fees, contract instruction, other educational and general revenue, and local tax revenue.

(d) Financial Reporting: Integrated Fiscal Reporting System (IFRS).

(1) Standards. Each public junior college shall report comprehensive tuition and fee financial data each fiscal year through IFRS as defined in the IFRS manual adopted pursuant to subsection (g)(6) of this section.

(2) The Coordinating Board may use data reported through IFRS to establish average annual tuition and fee charges as necessary to implement this chapter.

(e) Academic Reporting: Education Data System reporting.

(1) Standards. Each public junior college must use data standards established by the Commissioner of Higher Education to submit required information relating to the delivery of educational programs. The Commissioner of Higher Education shall adopt and publish annually data standards in official Coordinating Board publications, including through the Coordinating Board Management (CBM) Reporting and Procedures Manual for Texas Community, Technical, and State Colleges as adopted pursuant to subsection (g)(2) of this section. The Coordinating Board will widely disseminate this publication, which will include:

(A) descriptions of the data collections and submission requirements;

(B) descriptions of data elements and the codes used to report them, including data used to calculate Full-Time Student Equivalent enrollments, Texas Success Initiative eligibility of students, student transfer, dual credit or dual enrollment, the number and type of credentials conferred, and other relevant student characteristics;

(C) detailed responsibilities of public junior colleges in connection to the data submission process, including each deadline for submission and resubmission; and

(D) descriptions of data submission requirements, including submission record layout specifications and data edit specifications.

(2) A public junior college may report a student in attendance on the approved course census date for the purpose of funding under this subchapter, in accordance with Texas Education Code, §130A.008.

(3) Review Process. The Commissioner of Higher Education shall review the CBM Reporting and Procedures Manuals annually. The Commissioner of Higher Education may approve changes to the data and reporting standards outside of the annual review process to expedite implementation of data collections and reporting.

(4) Certification. The reporting official for each public junior college must certify the accuracy of the report by a certification statement submitted to the Coordinating Board's Educational Data Center in accordance with the template and instructions provided in the CBM Reporting and Procedures Manual.

(5) Credential Reporting. Each institution shall report all credentials conferred to a student in the manner prescribed in §13.643(10) and (14) of this chapter (relating to Definitions) and in accordance with the CBM Reporting and Procedures Manual for Texas Community, Technical, and State Colleges as adopted pursuant to subsection (g)(2) of this section.

(f) Academic Reporting: Ad Hoc Reporting Requests. As necessary to implement this chapter, the Commissioner of Higher Education may determine the need for additional, limited, supplemental requests for data and information from public junior colleges. To the extent Ad Hoc Reporting Requests may determine or influence funding disbursements under this subchapter, the Coordinating Board shall require the reporting official or another Coordinating Board designated official for each public junior college to certify the accuracy of the information contained in the report.

(g) Adoption by Reference. The Coordinating Board adopts the following manuals, including their appendices, by reference, in accordance with Texas Education Code, §61.0275:

(1) Coordinating Board Management Reporting and Procedures Manual for Career Schools and Colleges and Private and Out-of-State Public Postsecondary Institutions, version "Effective Fall 2025;"

(2) Coordinating Board Management Reporting and Procedures Manual for Texas Community, Technical, and State Colleges, version "Effective Fall 2025;"

(3) Coordinating Board Management Reporting and Procedures Manual for Texas Health-Related Institutions, version "Effective Fall 2025;"

(4) Coordinating Board Management Reporting and Procedures Manual for Texas Independent Colleges and Universities, version "Effective Fall 2025;"

(5) Coordinating Board Management Reporting and Procedures Manual for Texas Public Universities, version "Effective Fall 2025;"

(6) User Manual for Report of Fundable Operating Expenses (RFOE), version "November 2020;"

(7) Budget Requirements and Annual Financial Reporting Requirements for Texas Public Community Colleges, version "Fiscal Year 2025;"

(8) Community College Annual Reporting and Analysis Tool (CARAT) User's Guide, version "November 2020;"

(9) Integrated Fiscal Reporting System (IFRS) Handbook for Reporting Officials, version "October 2025;" and

(10) Financial Aid Database (FAD) Report Manual 2024-2025 (FY 2025).

§13.525. *Commissioner Review of Required Reporting; Data Reporting Errors.*

(a) This rule applies only to fundable certified data that will be used to calculate a formula funding allocation in an upcoming fiscal year or that has been used to calculate a formula funding allocation within the previous seven fiscal years. This rule does not apply to data reported to the Coordinating Board that is not yet fundable certified data.

(b) ~~[(a)]~~ After the ~~[Upon]~~ finalization of fundable certified data, the Commissioner of Higher Education at his or her discretion or upon recommendation of the Chief Audit Executive may direct Coordinating Board staff to review the accuracy of the data reported to the Coordinating Board by a public junior college under this subchapter using any of the following methods or combination thereof:

(1) The Chief Audit Executive or Coordinating Board staff may conduct periodic file reviews, desk-reviews, site visits, or audits of the accuracy of the data and information submitted for funding purposes, including regular reviews of submitted data carried out through standard data management, supporting data, audits conducted under this subchapter, or as a result of any other audit. Upon identifying a potential data reporting error, Coordinating Board staff shall notify the Commissioner of Higher Education as soon as practicable.

(2) Upon receiving a notification of a potential data reporting error from the Chief Audit Executive, Coordinating Board staff, or the Chief Executive Officer of a public junior college whose data may be affected, the Commissioner of Higher Education may:

(A) direct staff to continue to gather additional information;

(B) determine that the discrepancy does not rise to the level of a data reporting error as defined in this chapter due to the materiality impact of the error; or

(C) determine that the discrepancy rises to the level of a data reporting error that requires a funding adjustment due to the materiality impact of the error or the amount of overallocation or under-allocation.

(c) ~~[(b)]~~ The Coordinating Board may review and or require correction of a data reporting error affecting data used to calculate a formula funding payment that occurred not more than seven years prior [that occurred not more than seven years prior to a review conducted by Coordinating Board staff].

(d) ~~[(e)]~~ Upon the Commissioner of Higher Education's determination that the discrepancy constitutes a data reporting error requiring a funding adjustment, staff will notify the public junior college within thirty (30) business days.

(e) ~~[(d)]~~ The Commissioner of Higher Education may use any method provided in §13.528 or §13.529 of this subchapter (relating to Recovery of Overallocated Funds and Payment of Under-allocated Funds, respectively) to make the necessary funding adjustments to correct an over- or under-allocation.

§13.527. Records Retention.

A public junior college [An institution of higher education] shall retain records related to financial and educational data and information reported to the Coordinating Board under chapter [Chapter] 13 of this title (relating to Financial Planning) for a period of not less than seven years after the date of the close-out payment, as set out in subchapter U of this chapter (relating to Community College Finance Program: Forecasting Methodology and Finance Policy), made for the fiscal year that is two years after the year for which the data was reported, in accordance with Texas Education Code, §130A.009(e).

§13.528. Recovery of Overallocated Funds.

(a) If the Coordinating Board determines within seven years of an incorrect payment [after closing out a fiscal year pursuant to subchapter P, §13.477, of this chapter (relating to Close Out), or any close-out or settle-up provisions contained in subchapter U of this chapter (relating to Community College Finance Program: Forecasting Methodology and Finance Policy);] that a data reporting error or any other error resulted in an overallocation of funds to an ~~[the]~~ institution, the Coordinating Board shall use any method authorized under statute or this rule, including any close-out or settle-up provisions contained in subchapter U of this chapter (relating to Community College Finance Program: Forecasting Methodology and Finance Policy), to make a funding adjustment necessary to correct the over-allocation.

(b) The Coordinating Board shall notify the institution not later than thirty (30) business days after the Commissioner of Higher Education makes a determination of a data reporting error under §13.525 of this subchapter (relating to Commissioner Review of Required Reporting; Data Reporting Errors) or otherwise identifies an error requiring a funding adjustment to recover an overallocation. This notification must contain the amount of the overallocation and the basis for the determination.

(c) The institution may submit a written appeal to the Commissioner of Higher Education within thirty (30) business days of receiving notification of an overallocation. The institution may attach any data or other written documentation that supports its appeal. The Commissioner of Higher Education shall review the appeal and determine in his or her sole discretion whether to affirm, deny, or modify the determination of overallocation within thirty (30) business days of receipt. The Commissioner of Higher Education or Chief Audit Executive shall make an annual report of overallocation determinations to the Board.

(d) If the institution does not appeal or the Commissioner of Higher Education affirms the determination that an overallocation requiring a funding adjustment has occurred, the Coordinating Board shall recover an amount equal to the amount overallocated to the public junior college through one of the following methods:

(1) The Coordinating Board shall:

(A) withhold an amount equivalent to the overallocation by withholding from subsequent allocations of state funds for the current fiscal year as part of any close-out ~~[close out]~~ or settle-up ~~[settle-up]~~ provisions contained in subchapter U of this chapter, or as otherwise authorized by law of the current fiscal year; or

(B) request and obtain a refund from the public junior college during the current fiscal year an amount equivalent to the amount of the overallocation; or

(C) If the Commissioner of Higher Education in his or her sole discretion determines that the recovery of an overallocation in the current or subsequent fiscal year will have a substantial negative impact on the operations of the institution or the education of students, the Commissioner of Higher Education may instead recover the overallocation pursuant to paragraph (2) of this subsection.

(2) If the Commissioner of Higher Education in his or her sole discretion determines that an overallocation pursuant to paragraphs (1) or (2) of this subsection was the result of exceptional circumstances reasonably caused by statutory changes to Texas Education Code, Chapters 130 or 130A, and related reporting requirements, the Coordinating Board may recover the overallocation over a period not to exceed the subsequent five fiscal years.

(e) In addition to the recovery of an over-allocation under this section, the Commissioner of Higher Education may establish a corrective action plan for a public junior college that has received an over-allocation of funds.

(f) If the public junior college fails to comply with an agreement to submit a refund established under this section, the Coordinating Board must report to the Comptroller of Public Accounts for recovery pursuant to Texas Education Code, Section 130A.009.

§13.529. *Payment of Under-allocated Funds.*

(a) If the Commissioner of Higher Education determines within one year of the certification date of data found to have been reported in error that a data reporting error [or any other error] resulted in an under-allocation of funds, the Coordinating Board shall provide the funds to the institution pursuant to [the close-out process in subchapter P, §13.477, of this chapter (relating to Close Out),] any close-out or settle-up [settle up] provisions contained in subchapter U of this chapter (relating to Community College Finance Program: Forecasting Methodology and Finance Policy), or as otherwise authorized by law.

(b) The Coordinating Board shall not provide additional funds to an institution in response to a data reporting error if more than one year has elapsed between the certification deadline of the data in question and the date that the error was initially communicated to the Commissioner of Higher Education.

(c) The Coordinating Board shall provide additional funds to an institution pursuant to any close-out or settle-up provision contained in subchapter U of this chapter if the Commissioner of Higher Education determines that an error other than a data reporting error resulted in an under-allocation of formula funding to the institution at least fifteen (15) days prior to the close out of a fiscal year for which funding was under-allocated.

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 June 2, 2025.

TRD-202501894

Nichole Bunker-Henderson

General Counsel

Texas Higher Education Coordinating Board

Earliest possible date of adoption: July 13, 2025

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



**SUBCHAPTER S. COMMUNITY COLLEGE
FINANCE PROGRAM: BASE AND
PERFORMANCE TIER METHODOLOGY
FOR FISCAL YEAR 2025**

19 TAC §13.564

The Texas Higher Education Coordinating Board (Coordinating Board) proposes amendments to Texas Administrative Code, Title 19, Part 1, Chapter 13, Subchapter S, Community College Finance Program: Base and Performance Tier Methodology for Fiscal Year 2025, §13.564, concerning the effective date of this subchapter. Specifically, the amendment will clarify that Chapter 13, Subchapter S, rules apply to the calculation of foundation payments made in fiscal year 2025, and prior and future adjustments of those payments under the dynamic funding model. New Chapter 13, Subchapter V, rules proposed in separate rule-making will govern new foundation payments beginning in fiscal year 2026, and incorporates the policies set forth by legislation passed by the 89th Texas Legislature.

The subchapter is retitled to specify that Chapter 13, Subchapter S, rules apply only to 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 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 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 limiting the effect of this rule to FY2025 to allow the adoption of new rules for FY2026 to implement the provisions of Senate Bill 1786, 89th Texas Legislature, Regular Session, and provide for the continued refinement of House Bill 8, 88th Texas Legislature, Regular Session, which established a modern and dynamic finance system that better aligns the financial incentives of public junior colleges with the achievement of successful student outcomes and to support the education and training of the Texas workforce. 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. 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 House Bill 8, 88th Texas Legislature, Regular Session.

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.

§13.564. *Effective Date of Rules.*

This subchapter takes effect September 1, 2024, and is effective only for the calculation of fiscal year 2025 funding amounts and the calculation of fiscal year 2025 funding adjustments pursuant to subchapter U of this chapter (relating to Community College Finance Program: Forecasting Methodology and Finance Policy).

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 June 2, 2025.

TRD-202501895

Nichole Bunker-Henderson

General Counsel

Texas Higher Education Coordinating Board

Earliest possible date of adoption: July 13, 2025

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



SUBCHAPTER T. COMMUNITY COLLEGE FINANCE PROGRAM: HIGH-DEMAND FIELDS

19 TAC §13.594

The Texas Higher Education Coordinating Board (Coordinating Board) proposes amendments to Texas Administrative Code, Title 19, Part 1, Chapter 13, Subchapter T, §13.594, concerning High-Demand Fields Methodology. Specifically, this amendment will create administrative flexibility to determine the academic fields that are linked to occupations identified as being in high demand when no corresponding academic fields are listed in the crosswalk developed by the Bureau of Labor Statistics and National Center for Education Statistics, which is currently the only allowable means of making such linkages.

This amendment is necessary to more effectively discharge the requirement that the Coordinating Board provide additional performance funding to community colleges when a credential is earned "in a high-demand occupation, as defined by coordinating board rule, or an appropriate proxy determined by the coordinating board based on available data," pursuant to Texas Education Code, §130A.101(c)(1).

Andy MacLaurin, Assistant Commissioner for 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 improving the methodology for determining High-Demand Fields, incentivizing institutions to produce credentials responsive to the workforce needs of the state. 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. 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.101(c)(1), which provides the Coordinating Board with the authority to make rules defining when a college is entitled to additional performance tier funding for awarding a credential in a high-demand occupation or appropriate proxy.

The proposed amendment affects Texas Education Code, Section 130A.101.

§13.594. High-Demand Fields Methodology.

The Coordinating Board shall apply the following methodology to generate region-specific lists of Regional High-Demand Fields to be approved by the Commissioner of Higher Education:

(1) In consultation with the Texas Workforce Commission (TWC), the Coordinating Board shall examine projections of the number of persons expected to be employed in the state of Texas and in each region for each occupation.

(A) These projections shall consider the ten-year employment projections most recently published by the TWC; data from the United States Bureau of Labor Statistics (BLS); and other relevant data regarding projected regional and state workforce needs.

(B) In its examination of workforce projections, the Coordinating Board shall exclude from the analysis all occupations identified by the BLS as typically requiring, at the entry level, no high school diploma or equivalent, a high school diploma or equivalent, a bachelor's degree, or any level of graduate education, except as provided in paragraph (2) of this section.

(2) The Coordinating Board may include an occupation identified by the BLS as typically requiring a high school diploma or equivalent or a bachelor's degree if it meets the following criteria:

(A) The BLS identifies the occupation as typically requiring a high school diploma or equivalent and either the BLS identifies the occupation as typically requiring a successfully completed apprenticeship or the TWC identifies the occupation as requiring a licensure or certification granted by an agency of this state, or other credential, or successful completion of an apprenticeship, to perform the occupation; or

(B) The Coordinating Board identifies relevant data demonstrating that the occupation typically requires a license, certification, credential other than a bachelor's degree, or a completed apprenticeship, and more than one (1) public junior college operates a program intended to prepare individuals to obtain such a credential or completed apprenticeship.

(3) The Coordinating Board shall calculate each region's list of high-demand occupations as follows:

(A) Within each region, group each occupation according to the first four (4) digits of its code under the most recent Standard Occupational Classification (SOC) system as promulgated by the BLS.

(B) Sum the projected change in employment for each grouping of occupations according to the first four (4) digits of SOC codes across all regions to generate a set of projections for each group of occupations across the state and rank this set from highest projected change to lowest.

(4) Each region's list of high-demand occupations shall consist of the ten (10) four-digit SOC groupings with the highest projected change across the state and the five (5) four-digit SOC groupings with the highest projected change within that region that do not appear among the ten (10) with the highest projected change statewide, as well as up to five (5) Essential Occupations identified by six-digit SOC codes as determined pursuant to §13.595(b) of this subchapter (relating to Essential Occupations) and any Emerging Occupations identified by six-digit SOC codes as determined pursuant to §13.596 of this subchapter (relating to Emerging Occupations).

(5) Each region's list of high-demand fields shall consist of all academic fields, defined as its four-digit CIP Code, that correspond to its list of high-demand occupations according to the SOC-to-CIP crosswalk most recently published by the BLS and National Center for Education Statistics, or, at the Commissioner of Higher Education's discretion, the crosswalk most recently published with a reasonable allowance of time for analysis and review. The Coordinating Board shall match a high-demand occupation to the academic fields that correspond to an occupation in the SOC-to-CIP crosswalk to which it is substantively equivalent.

(6) When the crosswalk used in this section does not include a high-demand occupation or does not link any academic fields to it, the Commissioner of Higher Education shall designate at least one academic field, defined as a four-digit CIP code, as being linked to the occupation and add it to the corresponding high-demand fields list if it is not already present. In making this determination the Commissioner of Higher Education may consult with appropriate subject matter experts.

(7) In consultation with appropriate subject matter experts, the Commissioner of Higher Education may alter the set of academic fields added to a high-demand fields list on the basis of their correspondence to an Emerging Occupation determined pursuant to §13.596 of this subchapter (relating to Emerging Occupations).

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 June 2, 2025.

TRD-202501896

Nichole Bunker-Henderson

General Counsel

Texas Higher Education Coordinating Board

Earliest possible date of adoption: July 13, 2025

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

◆ ◆ ◆

SUBCHAPTER U. COMMUNITY COLLEGE FINANCE PROGRAM: FORECASTING METHODOLOGY AND FINANCE POLICY

19 TAC §13.623, §13.624

The Texas Higher Education Coordinating Board (Coordinating Board) proposes amendments to Texas Administrative Code, Title 19, Part 1, Chapter 13, Subchapter U, §13.623 and §13.624, concerning Community College Finance Program: Forecasting Methodology and Finance Policy. Specifically, this amendment will increase the rigor and precision of the forecasting methodology used to forecast student fundable outcomes for public junior colleges.

The Coordinating Board initially adopted rules relating to the new community college finance system for fiscal year 2025 in April 2024, including Chapter 13, Subchapter U. The proposed amendments contain the following substantive changes to the rules previously adopted by the Coordinating Board:

Paragraph §13.623(6) is amended to limit the definition of fundable certified data to data used to calculate funding to appropriately limit the use of the most burdensome data correction process.

Subsection §13.624(a) is amended to remove references to Chapter 13, Subchapter S (concerning the Community College Finance Program: Base and Performance Tier Methodology). Pending Board approval, Subchapter S will apply only to fiscal year 2025, and separate subchapters will define the base and performance tier methodologies for each subsequent fiscal year. The forecasting rules must reference definitions that apply to the year in question.

Subsection §13.624(b) is amended to limit its applicability to fiscal year 2025 adjustments and the fiscal year 2026 foundation payment to keep the current methodology in place for the known payment amounts to be disbursed in fiscal year 2026, which have been the basis for appropriations deliberations.

Rule 13.624 is further amended with the addition of a new subsection (c), which includes multiple forecasting models as possibilities for forecasting each student fundable outcome starting with adjustments to fiscal year 2026 funding. The models will use time series cross validation as a statistical method for determining the model with the lowest values of two standards, commonly used statistical model thresholds: corrected Akaike information criterion (AICc) and root mean square error (RMSE). The amendment provides for the selection of the optimal model out of three model options for forecasting student fundable outcomes to increase forecasting accuracy relative to the current one-option system.

Subsection §13.624(c), previous subsection (b), is amended to clarify what data will be used to conduct the time series cross validation, the length of which was determined to ensure that colleges can conduct this data analysis themselves prior to each funding year to determine which model(s) will be used to forecast

their student fundable outcomes. This clarification ensures no post-hoc model selection will occur.

Subsections §13.624(e) and (f), previous subsections (d) and (e), are amended to remove references to Chapter 13, Subchapter S (see above relating to §13.624(a)) and to add clarity.

Andy MacLaurin, Assistant Commissioner of Funding, 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. 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, 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 House Bill 8, 88th Texas Legislature, Regular Session, which established a modern and dynamic finance system that better aligns the financial incentives of public junior colleges with the achievement of successful student outcomes and to support the education and training of the Texas workforce. 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 for Funding, P.O. Box 12788, Austin, Texas 78711-2788, or via email at 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 House Bill 8, 88th Texas Legislature, Regular Session. 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, Chapter 130A, and Sections 61.059 and 130.0031.

§13.623. *Definitions.*

The following words and terms, when used in this subchapter, shall have the following meanings:

(1) **Certified Outcomes**--Data reported by each institution for the number of fundable outcomes, or used to calculate the number of fundable outcomes, as defined by [subchapter S of] this chapter [(relating to Community College Finance Program: Base and Performance Tier Methodology)], generated in a prior fiscal year as required by a Coordinating Board rule, reporting manual, or other data submission instructions.

(2) **Close-Out Adjustment**--The amount added to or subtracted from the first formula funding payment made to a public junior college in a fiscal year to account for variance between the sum of all foundation payments and adjustments for a prior fiscal year and the recalculation of the performance tier portion of the foundation payment[; in accordance with §13.555 of this chapter (relating to Performance Tier Funding);] for the fiscal year based exclusively on fundable certified outcomes data. The first application of the close out adjustment will be to FY 2027 funding based on variance in FY 2025 funding.

(3) **Dynamic Adjustment**--The amount added to the second formula funding payment made to a public junior college in a fiscal year in the amount by which the foundation payment for that fiscal year as initially calculated is less than the recalculation of the foundation payment using data, including preliminary outcomes data, that have become available since the initial calculation. Dynamic adjustments may not be a negative amount.

(4) **Error Adjustment**--An ad hoc funding adjustment made by the Coordinating Board after the close-out adjustment to account for data or processing errors discovered after the close-out adjustment, as authorized by subchapter R of this chapter (relating to State Public Junior College Finance Program: Reporting, Audit, and Overalllocation).

(5) **Foundation Payment**--The total of the base and performance tier payments to which a public junior college may be entitled for a given fiscal year, calculated by application of methodologies prescribed in [subchapter S of] this chapter (relating to the base and performance tier methodologies of the community college finance program for the fiscal year in question [Community College Finance Program: Base and Performance Tier Methodology]). The Commissioner of Higher Education shall calculate the foundation payment for a fiscal year at the level calculated as of June 1 prior to the start of the fiscal year unless the Commissioner of Higher Education determines that calculation on that date could result in inaccurate funding to one or more institutions.

(6) **Fundable Certified Data**--Data reported by a public junior college and used to calculate funding amounts disbursed under this subchapter for which both the certification date specified in the applicable rule or reporting manual or other data submission instructions and the date of May 1 of the current fiscal year have passed. The Coordinating Board shall use Fundable Certified Data as of May 1 of the current fiscal year to calculate the foundation payment amount for the next fiscal year.

(7) **Institution**--In this subchapter, [-] means a public junior college, public junior college district, or community college as defined in Texas Education Code, chapters 130 or 130A, unless expressly provided otherwise.

(8) **Preliminary Outcomes**--The Coordinating Board shall calculate the preliminary outcomes based on data on the number of fundable outcomes reported by public junior colleges generated in the prior year for the purpose of calculating the dynamic adjustment and settle-up adjustment.

(9) Public Junior College--In this subchapter, means a public junior college, public junior college district, or community college as defined in Texas Education Code, chapters 130 or 130A, unless expressly provided otherwise.

(10) Settle-Up Adjustment--The amount added or subtracted to a college's current-year funding to account for variance between the prior-year foundation payment plus dynamic adjustment and the recalculation of the prior-year foundation payment based on preliminary data from the prior year itself. The Settle-Up Adjustment first applies to FY 2026 when the FY 2025 forecast is compared to FY 2025 preliminary outcomes.

§13.624. Forecasting Fundable Outcomes.

(a) Purpose. The purpose of this section is to establish the methodology for forecasting fundable performance outcome counts to calculate performance tier funding amounts covering a time period for which performance data are not yet available. Using historical data for each public junior college, the Coordinating Board shall forecast each performance tier fundable outcome based on the applicable performance tier funding rules of this chapter in effect for the fiscal year for which the Coordinating Board is calculating performance tier funding. The Coordinating Board shall use these figures to calculate each performance tier payment for the fiscal year as established in this chapter.

~~[(a) Purpose. The purpose of this section is to establish the methodology for forecasting fundable performance outcomes to calculate performance tier funding amounts covering a time period for which performance data are not yet available. The Coordinating Board shall forecast each fundable performance outcome as defined under §13.556 of this chapter (relating to Performance Tier: Fundable Outcomes), except those set out under §13.553(28) and (31) of this chapter (relating to Definitions) for each public junior college using historical performance data. The Coordinating Board shall use these figures to calculate each performance tier payment for the funded fiscal year as established under §13.555 of this chapter (relating to Performance Tier Funding).]~~

(b) Methodology for Fiscal Year 2025 and Foundation Payment for Fiscal Year 2026. To calculate payment adjustments to Fiscal Year 2025 and the foundation payment for Fiscal Year 2026, the [The] Coordinating Board shall forecast the total annual count of a fundable performance tier outcome for a public junior college using the exponential triple smoothing method of trend analysis with additive error, trend, and seasonality parameters applied to time series data. Except as specified in subsection (d)(1) of this section, this [This] time series data shall use fundable certified data with the counts of fundable outcomes achieved annually by the public junior college during no fewer than the six most recent years for which data are available except as otherwise provided by subsection (c) of this section.

(c) Methodology. Except for forecasts conducted to calculate amounts of payments under subsection (b) of this section, the Coordinating Board shall forecast the total annual count of a performance tier fundable outcome for a public junior college using the model of those provided in subsection (b)(1)(A) of this section demonstrating the lowest root mean square error (RMSE) as established by time series cross validation, according to the following:

(1) The model demonstrating the lowest RMSE for each fundable performance outcome for a public junior college will be selected and used for forecasting the total annual count of that fundable performance outcome for that public junior college.

(2) For the purposes of forecasting total annual count of a fundable performance outcome for a public junior college, the Coordinating Board will use fundable certified data with the counts of fundable outcomes achieved annually by the public junior college during

no fewer than the six most recent years for which data are available except as otherwise provided by subsection (d) of this section.

(3) For the purposes of determining the lowest RMSE model for forecasting each fundable performance outcome for each public junior college for a given fiscal year, fundable certified data with the counts of fundable outcomes achieved annually by the public junior college no more recently than two years prior to the fiscal year for which the forecast is conducted will be included in model selection.

(4) In forecasting performance tier fundable outcome counts, the Coordinating Board shall select between the models listed below. Each model's parameter specifications will be the set of parameters that produces the lowest corrected Akaike information criterion (AICc).

(A) Autoregressive integrated moving average (ARIMA).

(B) Exponential triple smoothing (ETS).

(C) Random walk with drift (RWD).

(d) [(e)] Other time series data.

(1) In calculating amounts of payments under subsection (b) of this section, the [The] time series data for forecasting Occupational Skills Awards and Institutional Credentials Leading to Licensure or Certification shall consist of [use] fundable certified data with the counts of each performance tier fundable outcome achieved annually by a public junior college during no fewer than the four most recent fiscal years for which data are available. For Institutional Credentials Leading to Licensure or Certification, the Coordinating Board shall use the definition and limitations for the credential in effect during the fiscal year for which the credential was reported [counted].

(2) In conducting forecasting according to subsection (c) of this section, the Coordinating Board shall forecast performance outcome counts for which four or five years of fundable certified data are available using the available data. If fewer than four years of fundable certified data are available, the Coordinating Board shall forecast the performance outcome count as the greater of the count for the most recent available year of fundable certified data and the average of the counts for all available years of fundable certified data.

(c) [(d)] Bounded projections. The forecasted total annual count of a fundable performance outcome for a fiscal year shall not exceed 110 percent nor be less than 95 percent of the count for the prior year. If the count for the prior year is also a forecasted value, then the maximum allowable change for the current year shall be calculated against the prior year's forecasted value as adjusted pursuant to this rule. If the value for a fundable performance outcome for the most recent actual, not forecasted data is zero, the forecast shall not be bounded in the next fiscal year. In no circumstances may an estimated fundable performance outcome be negative.

(f) [(e)] The [As provided by §13.556 of this chapter, the] Coordinating Board shall forecast the number of each fundable credential in a high-demand field, as defined under subchapter T of this chapter (relating to Community College Finance Program: High-Demand Fields), for a fiscal year by multiplying the average annual percentage of the credential conferred in a high-demand field in the institution's [credential's] time series data by the total count of the credential forecast to be conferred in that year.

(g) [(f)] The [As provided by §13.556 of this chapter, the] Coordinating Board shall forecast the number of each fundable credential receiving an additional weight based on [conferred to students who are] academically disadvantaged, economically disadvantaged, and adult learners status, as provided by §13.556 and §13.646 of this chapter (re-

lating to Performance Tier: Fundable Outcomes) establishing performance outcome definitions for the fiscal year for which it is calculating performance funding [§13.557 of this chapter (relating to Performance Tier: Fundable Outcome Weights)], for a fiscal year by multiplying the average percentage of the credential conferred by the institution to students in each respective subgroup in the institution's [credential's] time series data by the total count of the credential forecast to be conferred by the institution in that year.

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

Filed with the Office of the Secretary of State on June 2, 2025.

TRD-202501897

Nichole Bunker-Henderson

General Counsel

Texas Higher Education Coordinating Board

Earliest possible date of adoption: July 13, 2025

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



SUBCHAPTER V. COMMUNITY COLLEGE FINANCE PROGRAM: BASE AND PERFORMANCE TIER METHODOLOGY FOR FISCAL YEAR 2026

19 TAC §§13.640 - 13.651

The Texas Higher Education Coordinating Board (Coordinating Board) proposes new rules in Texas Administrative Code, Title 19, Part 1, Chapter 13, Subchapter V, Community College Finance Program: Base and Performance Tier Methodology for Fiscal Year 2026, §§13.640 - 13.651, concerning the administration of the community college finance system established by House Bill 8 (88R) and further refined by Senate Bill 1786 (89R) in Texas Education Code, chapter 130A. Specifically, this new section will clarify that Chapter 13, Subchapter, V rules apply to the Coordinating Board's calculation of foundation payments made in fiscal year 2026 and future adjustments of those payments under the dynamic funding model, and it also contains a number of modifications relating to specific issue areas, as detailed below. Subsequently, Subchapter S has continued authority for fiscal year 2025 only.

The Coordinating Board initially adopted the regular rules relating to the community college finance system in April 2024 for fiscal year 2025, including Chapter 13, Subchapter S. The proposed Subchapter V rules would perform the same functions as Chapter 13, Subchapter S, which establishes all definitions, methods, weights and rates for the base and performance tiers, but would apply to funding year FY 2026. The proposed rules would make the following substantive changes for fiscal year 2026 to the rules previously adopted by the Coordinating Board for fiscal year 2025:

1. Modification of the Transfer Fundable Outcome to include transfers to a private or independent university as eligible to receive the transfer fundable outcome (see proposed §13.646(e))
2. Clarification of the Transfer Fundable Outcome and Co-Enrollment Fundable Outcome to ensure there is not duplicative funding for a student who earned the co-enrollment outcome by excluding from funding students for which any institution already

earned the transfer outcome and to require an institution to submit the written agreement establishing their structured co-enrollment program with a general academic institution to be eligible for funding of the co-enrollment outcome (see proposed §13.643(34), §13.646(e), and §13.646(f))

3. Removal of the expiration dates on the contact hour and semester credit hour minima for Institutional Credentials Leading to Licensure (ICLCs) and Third-Party Credentials (see proposed §13.646(b)(1)(C)) to ensure that the credentials are of value, as required by Texas Education Code, chapter 130A.101.

4. Limitations on fundability of credentials conferred to the same student in the same year (see proposed §13.646(h))

The proposed Subchapter V maintains continuity with existing rules in Subchapter S while proposing the changes listed above and ensuring the applicability of the rules beyond the 2025 fiscal year.

Rule 13.640, Purpose, establishes that the purpose of Subchapter V is to continue to refine the community college finance system established by H.B. 8 (88R).

Rule 13.641, Authority, establishes the portions of the Texas Education Code (TEC) that authorize the Coordinating Board to adopt rules pertaining to community college finance.

Rule 13.642, Applicability, states that the Coordinating Board will apply the rules in effect for the fiscal year in which the funding was delivered, unless otherwise provided. This provision provides guidance to institutions on which rules will apply as the Coordinating Board iterates and refines the community college finance framework. This also clarifies that this subchapter is applicable to fiscal year 2026 base tier and performance tier calculations for funding purposes.

Rule 13.643, Definitions, lists definitions pertinent to the community college finance system. This section provides only general meanings of terms and reserves substantive policy detail for the sections described below.

Rule 13.644, Base Tier Allotment, establishes the calculations used to determine Base Tier funding that the legislature entitled community colleges to receive under TEC, §§130A.051-130A.056. To summarize, Base Tier funding is calculated as Instruction and Operations (I&O) minus Local Share. If Local Share is greater than Instructions and Operations, then Base Tier funding is zero.

Rule 13.645, Performance Tier Funding, establishes the components of the Performance Tier portion of community college funding, codified under TEC, chapter 130A, subchapter C. Performance Tier funding consists of the number of Fundable Outcomes each community college produces, weighted according to certain Fundable Outcome Weights and multiplied by relevant rates. The Coordinating Board determines institutions' weighted fundable outcome completions based on the better of the average of three fiscal years or the current fiscal year.

Rule 13.646, Performance Tier: Fundable Outcomes, describes the outcomes that are eligible to receive performance tier funding. Outcomes consist of the categories of 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. The paragraphs concerning §13.646 below focus on the specific ways in which this rule

differs substantively from the analogous current rule governing fundable outcomes for fiscal year 2025.

Subsection (b)(2) adds the definition for Credential of Value added in new TEC, §130A.102, applicable to associate degrees awarded beginning in the 2025 - 2026 school year. This definition implements the statute, as amended by the 89th Texas Legislature, to set out the methodology and data sources used by the coordinating board to determine whether each associate degree meets the credential of value threshold to be eligible for funding.

Subsection (b)(2)(D) adds the definition of "individual self-sufficient wage" as required by new Section 130A.102. This definition includes a calculation that is a component of the definition of "credential of value" methodology. The calculation aligns with Government Code 2308A, as required by law, and established a minimum salary component to ensure a credential is of value to a student against an objective metric.

Subsection (h) limits performance tier funding to the first credential of each type that an institution confers to the same student in the same year, unless a subsequent credential is conferred in a high-demand field, in which case the high-demand field credential will be funded. It also requires that a student have completed a credential no earlier than June 1, 2025 (or May 1, 2025, if the credential was granted through reverse transfer) for the credential to be eligible for funding if a college reports it as having been conferred in fiscal year 2026. This provision promotes efficient conferral and reporting of credentials after they are earned and ensures that performance funding reflects outcomes actually achieved in the year in question to incentivize institutions to educate and confer credentials to additional students as part of the finance system

Rule 13.647, Performance Tier: Fundable Outcome Weights, establishes the weights that the Coordinating Board applies to the fundable outcomes achieved by students in the categories of economically disadvantaged, academically disadvantaged, and adult learners, for the purposes of performance tier funding, as required by TEC, §130A.101. Institutions earn an additional weight of 25% for a fundable outcome when that outcome is achieved by an economically disadvantaged or academically disadvantaged student and an additional weight of 50% when the outcome is achieved by an adult learner.

Rule 13.648, Performance Tier: High-Demand Fields, establishes that an institution will receive additional weight for awarding credentials delivered in disciplines listed as a High-Demand Field. This is described in more detail in Subchapter T of this chapter.

Rule 13.649, Performance Tier: Rates, sets the monetary rates for each type of fundable outcome achieved by an institution. These fundable outcomes include the conferring of fundable credentials (including associate degrees, bachelor's degrees, and many types of workforce credentials), the credential of value premium, student completion of 15 dual credit hours, and successful student transfer to a public four-year institution. Rates are generally maintained for consistency with those set for fiscal year 2025 formula funding.

Rule 13.650, Shared Services Report, stipulates that smaller community college districts receiving a Base Tier scale adjustment must submit a report on their participation in shared services, and describes the content of this shared report. This provision carries out a statutory requirement for small schools to submit this report, codified in TEC, §130A.054(e).

Rule 13.651, Effective Date of Rules, states that the proposed rules will take effect on September 1, 2025, which is the start of the 2026 fiscal year, and apply only to the calculation of fiscal year 2026 funding amounts and the calculation of fiscal year 2026 funding adjustments pursuant to Subchapter U of this chapter.

Andy MacLaurin, Assistant Commissioner of Funding, 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 administration of the public junior college finance system established by House Bill 8, 88th Texas Legislature, Regular Session, and further refined by Senate Bill 1786, 89th Texas Legislature, Regular Session. Such ancillary fiscal implications may include the need to collect and report additional data in order to obtain additional outcome-based funding.

Fiscal implications of increased funding to institutions of higher education are funded as part of the public junior college finance system in statute and the General Appropriations Act. However, although the statute does create an economic impact, the rules implement the statute and do not create any additional impact. 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.

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, 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. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

Government Growth Impact Statement

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

Comments on the proposal may be submitted to Andy MacLaurin, Assistant Commissioner for Funding, P.O. Box 12788, Austin, Texas 78711-2788, or via email at CCFinance@high

ered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The new section is proposed under Texas Education Code (TEC), Section 130A.005, which provides the Coordinating Board with the authority to adopt rules and take other actions consistent with TEC, Chapter 61, Chapter 130, and Chapter 130A, to implement House Bill 8, 88th Texas Legislature, Regular Session. In addition, TEC, Section 130.355, permits the Coordinating Board to establish rules for funding workforce continuing education.

The proposed new section 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.

§13.640. Purpose.

The purpose of this subchapter is to implement the Community College Finance Program authorized by Texas Education Code, Chapters 61, 130, and 130A.

§13.641. Authority.

The Coordinating Board adopts this subchapter pursuant to Texas Education Code, §130A.005, requiring the Coordinating Board to adopt rules to implement the Community College Finance Program created in Texas Education Code, Chapters 61, 130, and 130A.

§13.642. Applicability.

Unless otherwise provided, the Coordinating Board shall apply this subchapter to the calculation of base tier funding for fiscal year 2026 and to the calculation of performance tier fundable outcome counts achieved or forecasted to be achieved in fiscal year 2026 in all instances where the fundable performance outcome counts achieved or forecasted to be achieved in fiscal year 2026 are a direct input to funding calculations. This subchapter does not apply to the calculation of performance tier fundable outcome counts achieved in years prior to fiscal year 2026, even when such counts are a direct input to funding calculations for funding amounts disbursed in fiscal year 2026.

§13.643. Definitions.

The following words and terms, when used in this subchapter, shall have the following meanings:

(1) Academically Disadvantaged--A designation that applies to postsecondary students who have not met the college-readiness standard in one or more Texas Success Initiative (TSI) assessments as provided by §4.57 of this title (relating to Texas Success Initiative Assessment College Readiness Standards), and who were not classified as either waived or exempt pursuant to §4.54 of this title (relating to Exemption).

(2) Adult Learner--A student aged 25 or older on September 1 of the fiscal year for which the applicable data are reported, in accordance with Coordinating Board data reporting requirements.

(3) Advanced Technical Certificate (ATC)--A certificate that has a specific associate or baccalaureate degree or junior level standing in a baccalaureate degree program as a prerequisite for admission. An ATC consists of at least 16 semester credit hours (SCH) and no more than 45 SCH and must be focused, clearly related to the prerequisite degree, and justifiable to meet industry or external agency requirements.

(4) Associate Degree--An academic associate degree as defined under Texas Education Code, §61.003(11), or an applied associate degree as defined under Texas Education Code, §61.003(12)(B).

(5) Baccalaureate Degree--A degree program that includes any grouping of subject matter courses consisting of at least 120 SCH

which, when satisfactorily completed by a student, will entitle that student to an undergraduate degree from a public junior college.

(6) Base Tier Funding--The amount of state and local funding determined by the Board for each public junior college that ensures the college has access to a defined level of funding for instruction and operations.

(7) Base Year--The time period comprising the year of contact hours used for calculating the contact hour funding to public junior colleges. The Base Year for a funded fiscal year consists of the reported Summer I and II academic term from the fiscal year two years prior to the funded fiscal year; the Fall academic term one fiscal year prior to the funded fiscal year; and the Spring academic term one fiscal year prior to the funded fiscal year.

(8) Basic Allotment--A calculation of the dollar value per Weighted FTSE, based on appropriations made in that biennium's General Appropriations Act pursuant to §13.644(c) of this subchapter (relating to Base Tier Allotment).

(9) Census Date--The date upon which a college may report a student in attendance for the purposes of formula funding, as specified in the Coordinating Board Management (CBM) manual for the year in which the funding is reported.

(10) Confer--An institution of higher education confers a credential when it determines that a student has met all requirements to earn the credential, as defined in paragraph (17) of this section, and updates the student's transcript to reflect completion of the credential program. Confer and award may be used synonymously.

(11) Continuing Education Certificate--A credential awarded for completion of a program of instruction that meets or exceeds 360 contact hours and earns continuing education units. The certificate program is intended to prepare the student to qualify for employment; to qualify for employment advancement; or to bring the student's knowledge or skills up to date in a particular field or profession; and is listed in an institution's approved program inventory.

(12) Credential of Value Baseline--A credential earned by a student that would be expected to provide a positive return on investment. Credential of Value Baseline methodology is described in §13.646 of this subchapter (relating to Performance Tier: Fundable Outcomes).

(13) Credential of Value Premium Fundable Outcome--A fundable outcome earned by an institution for a credential earned by a student that would be expected to provide a wage premium. Credential of Value Premium methodology is described in §13.646 of this subchapter.

(14) Credential Reporting--An institution of higher education reports a credential when it includes it in data submitted to the Coordinating Board pursuant to §13.524 of this chapter (relating to Required Reporting). An institution shall report a credential as having been conferred in the year or other applicable reporting period in which it was conferred pursuant to paragraph (10) of this section.

(15) Credentialing Examination--A licensure or registration exam required by a state or national regulatory entity or a certification exam required by an authorized professional organization. An authorized professional organization is a national, industry-recognized organization that sets occupational proficiency standards, conducts examinations to determine candidate proficiency, and confers an industry-based certification.

(16) Dual Credit or Dual Enrollment Fundable Outcome--An outcome achieved when a student earns at least 15 SCH or the

equivalent of fundable dual credit or dual enrollment courses, defined as follows:

(A) Courses that qualify as dual credit courses as defined in §4.83(10) of this title (relating to Definitions); and:

(i) Apply toward an academic or career and technical education program requirement at the postsecondary level; or

(ii) Are completed by a student who graduates with a Texas First Diploma, as codified in chapter 21, subchapter D of this title (relating to Texas First Early High School Completion Program).

(B) All dual credit courses taken by a student enrolled in an approved Early College High School program, as provided by Texas Education Code, §28.009, or a student enrolled in the Windham School District, pursuant to Education Code, chapter 19, or a P-TECH program pursuant to Education Code, chapter 29, Subchapter N, except a physical education course taken by a high school student for high school physical education credit.

(17) Earned--A student earns a credential when the student successfully completes the final semester credit hour or equivalent of a semester credit hour, as defined in paragraph (33), for the credential and has satisfied all other academic program requirements.

(18) Economically Disadvantaged--A designation that applies to postsecondary students who received the federal Pell Grant under 20 U.S.C. §1070a.

(19) Equivalent of a Semester Credit Hour--A unit of measurement for a continuing education course, determined as a ratio of one continuing education unit to 10 contact hours of instruction, which may be expressed as a decimal. One semester credit hour of instruction equals 1.6 continuing education units of instruction. In a continuing education course, not fewer than 16 contact hours are equivalent to one semester credit hour.

(20) Formula Funding--The funding allocated by the Coordinating Board among all public junior colleges by applying provisions of the Texas Education Code, agency rule, and the General Appropriations Act to a sector-wide appropriation from the General Appropriations Act.

(21) Full-Time Student Equivalent (FTSE)--A synthetic measure of enrollment based on the number of instructional hours delivered by an institution of higher education divided by the number of hours associated with full-time enrollment for the time period in question.

(22) Fundable Credential--As defined in §13.646(b) of this subchapter.

(23) Fundable Outcome Weights--A multiplier applied to eligible fundable outcomes to generate a Weighted Outcome Completion for use in determining the Performance Tier allocation. The methodology for each Fundable Outcome Weight is defined in §13.647 of this subchapter (relating to Performance Tier: Fundable Outcome Weights).

(24) High-Demand Fields--A field in which an institution awards a credential that provides a graduate with specific skills and knowledge required for the graduate to be successful in a high-demand occupation, based on the list of high-demand fields as defined in subchapter T of this chapter (relating to Community College Finance Program: High-Demand Fields).

(25) Individual Self-Sufficient Wage--The Coordinating Board calculates the Individual Self-Sufficient Wage for the purpose of this subchapter as the statewide median of county-level median self-sufficient wages as determined by the Texas Workforce Commis-

sion under Government Code, §2308A.012, rounded up to the nearest thousand dollars.

(26) Institutional Credentials Leading to Licensure or Certification (ICLC)--A credential awarded by an institution upon a student's completion of a course or series of courses that represent the achievement of identifiable skill proficiency and leading to licensure or certification. This definition includes a credential that meets the definition of an Occupational Skills Award in all respects except that the program may provide training for an occupation that is not included in the Local Workforce Development Board's Target Occupations list.

(27) Level 1 Certificate--A certificate designed to provide the necessary academic skills and the workforce skills, knowledge, and abilities necessary to attain entry-level employment or progression toward a Level 2 Certificate or an Applied Associate Degree, with at least 50% of course credits drawn from a single technical specialty. A Level 1 Certificate must be designed for a student to complete in one calendar year or less time and consists of at least 15 semester credit hours and no more than 42 semester credit hours.

(28) Level 2 Certificate--A certificate consisting of at least 30 semester credit hours and no more than 51 semester credit hours. Students enrolled in Level 2 Certificates must demonstrate meeting college readiness standards set forth in §4.57 of this title and other eligibility requirements determined by the institution.

(29) Local Share--The amount determined to be the institution's contribution of local funds to the Instruction and Operations (I&O) amount for each public junior college. The amount consists of estimated ad valorem maintenance and operations tax revenue and tuition and fees revenue, as determined by the Board.

(30) Non-Formula Support Item--An amount appropriated by line item in the General Appropriations Act to a single public junior college or limited group of colleges for a specific, named purpose.

(31) Occupational Skills Award (OSA)--A sequence of courses that meet the minimum standard for program length specified by the Texas Workforce Commission for the federal Workforce Innovation and Opportunity Act (WIOA) program (9-14 SCH for credit courses or 144-359 contact hours for workforce continuing education courses). An OSA must possess the following characteristics:

(A) The content of the credential must be recommended by an external workforce advisory committee, or the program must provide training for an occupation that is included on the Local Workforce Development Board's Target Occupations list;

(B) In most cases, the credential should be composed of Workforce Education Course Manual (WECM) courses only. However, non-stratified academic courses may be used if recommended by the external committee and if appropriate for the content of the credential;

(C) The credential complies with the Single Course Delivery guidelines for WECM courses; and

(D) The credential prepares students for employment in accordance with guidelines established for the Workforce Innovation and Opportunity Act.

(32) Opportunity High School Diploma Fundable Outcome--An alternative means by which adult students enrolled in a workforce program at a public junior college may earn a high school diploma at a college through concurrent enrollment in a competency-based program, as codified in Texas Education Code, chapter 130, subchapter O, and Texas Administrative Code, Title 19, Part 1, Chapter 12.

(33) Semester Credit Hour (SCH)--A unit of measure of instruction, represented in intended learning outcomes and verified by evidence of student achievement, that reasonably approximates one hour of classroom instruction or direct faculty instruction and a minimum of two hours out of class student work for each week over a 15-week period in a semester system or the equivalent amount of work over a different amount of time. An institution is responsible for determining the appropriate number of semester credit hours awarded for its programs in accordance with Federal definitions, requirements of the institution's accreditor, and commonly accepted practices in higher education.

(34) Structured Co-Enrollment Fundable Outcome--A student who earns at least 15 semester credit hours at the junior college district in a program structured through a binding written agreement between a general academic teaching institution and a community college submitted and certified to the Coordinating Board pursuant to §13.524 of this chapter (related to Required Reporting). Under such a program, students will be admitted to both institutions and recognized as having matriculated to both institutions concurrently. The Structured Co-enrollment Fundable Outcome does not include courses fundable under the Dual Credit or Dual Enrollment Fundable Outcome.

(35) Third-Party Credential--A certificate as defined in Texas Education Code, §61.003(12)(C), that is conferred by a third-party provider. The third-party provider of the certificate develops the instructional program content, develops assessments to evaluate student mastery of the instructional content, and confers the third-party credential. A third-party credential that meets the requirements of §13.646 of this subchapter is fundable in accordance with that section.

(36) Transfer Fundable Outcome--An institution earns a fundable outcome in the Performance Tier under §13.645 of this subchapter (relating to Performance Tier Funding) when a student enrolls in a general academic teaching institution or a private or independent institution of higher education, as defined in Texas Education Code, §61.003, after earning at least 15 semester credit hours from a single public junior college district as established under §13.646(e) of this subchapter. For the purpose of this definition, semester credit hours (SCH) shall refer to semester credit hours or the equivalent of semester credit hours.

(37) Weighted Full-Time Student Equivalent (Weighted FTSE or WFTSE)--A synthetic measure of enrollment equal to the number of instructional hours delivered by an institution of higher education divided by the number of hours associated with full-time enrollment for the fiscal year two years prior to the one for which formula funding is being calculated, where the hours delivered to students with certain characteristics carry a value other than one.

(38) Weighted Outcomes Completion--A synthetic count of completions of designated student success outcomes where outcomes achieved by students with certain characteristics carry a value other than one. The synthetic count may also represent a calculation, such as an average or maximizing function, other than a simple sum.

§13.644. Base Tier Allotment.

(a) Coordinating Board staff will calculate Base Tier funding for each public junior college district (district) as the greater of the Instruction and Operations (I&O) amount minus Local Share and zero.

(b) A district's I&O amount is the sum of the number of Weighted Full-Time Student Equivalents (Weighted FTSE) enrolled at the district multiplied by the Basic Allotment amount calculated by the Commissioner of Higher Education as provided in subsection (c) of this section and the district's total Contact Hour Funding as determined by the Coordinating Board.

(1) Weighted FTSE for each district is the sum of the district's full-time student equivalents weighted for the student characteristics under subparagraph (B) of this paragraph and the scale adjustment as provided in Texas Education Code, §130A.054.

(A) For purposes of determining annual Weighted FTSE as a component of formula funding for the fiscal year under this section, a district's full-time student equivalents (FTSE) is equal to the sum of:

(i) the total semester credit hours in which for-credit students were enrolled at the district as of the census dates of all academic semesters or other academic terms that were reported for the fiscal year two years prior, divided by 30; and

(ii) the total contact hours in which continuing education students were enrolled at the district as of the census dates of all academic semesters or other academic terms that were reported for the fiscal year two years prior, divided by 900.

(B) The Coordinating Board shall apply a weight to the calculation of Weighted FTSE as follows:

(i) if a student is classified as economically disadvantaged during the fiscal year two years prior, FTSE generated by that student shall have an additional value of 25%;

(ii) if a student is classified as academically disadvantaged during the fiscal year two years prior, FTSE generated by that student shall have an additional value of 25%; and

(iii) if a student is classified as an adult learner on September 1 of the fiscal year two years prior, FTSE generated by that student shall have an additional value of 50%.

(C) The Coordinating Board calculates a district's scale adjustment weight as the greater of the difference between 5,000 and the number of FTSE as defined in subparagraph (A) of this paragraph multiplied by .40, and zero.

(2) For the purpose of calculating formula funding amounts for the fiscal year, Coordinating Board staff will calculate Contact Hour Funding for a public junior college district by first multiplying the number of reported certified fundable contact hours generated by the district in each discipline during the Base Year of the fiscal year by the average cost of delivery per contact hour for each discipline respectively as described in the Report of Fundable Operating Expenses in accordance with §13.524(c) of this chapter (relating to Required Reporting) and summing across all disciplines. Contact hours attributable to students enrolled in a junior-level or senior-level course are weighed in the same manner as a lower division course in a corresponding field. That sum will then be multiplied by a rate calculated by the Commissioner of Higher Education as provided in subsection (c) of this section in accordance with the General Appropriations Act to calculate the district's Contact Hour Funding.

(c) The Commissioner shall calculate the Basic Allotment and the rate to be used for calculating districts' Contact Hour Funding such that:

(1) Contact Hour Funding is equivalent to Basic Allotment Funding for the fiscal year; and

(2) The sum of base tier funding to all districts for the fiscal year equals one-nineteenth of the sum of performance tier foundation payments calculated using funding certified data as described in subchapter U of this chapter (relating to Community College Finance Program: Forecasting Methodology and Finance Policy) by June 1 prior to the fiscal year.

(3) The Commissioner may modify the base tier funding on a pro rata basis in accordance with this subsection to account for any changes to performance tier totals arising from any amendments to rule adopted by the Board between June 1 and the beginning of the fiscal year.

(d) For the purpose of calculating formula funding amounts for the fiscal year, the Local Share for each public junior college district equals the sum of:

(1) the estimated amount of revenue that would have been generated by the district if it had assessed a \$0.05 maintenance and operations ad valorem tax on each \$100 of taxable property value in its taxing district, as reported under §13.524 of this chapter, which the Coordinating Board will calculate as the district's current tax collection for fiscal year two years prior multiplied by the ratio of the maintenance and operations tax rate to the total tax rate, divided by the product of the maintenance and operations tax rate and 100 and multiplied by five; and

(2) the amount of tuition and fee revenue calculated as the sum of:

(A) the district's FTSE two fiscal years prior as defined in subsection (b)(1)(A) of this section, except for semester credit hours derived from students enrolled in dual credit or dual enrollment courses, multiplied by a rate calculated by the Commissioner of Higher Education, which is the enrollment-weighted statewide average of tuition and fees charges to full-time equivalent students residing within the district of the public junior college they attend, as reported by the public junior colleges in the Integrated Fiscal Reporting System for the fiscal year two fiscal years prior; and

(B) the total semester credit hours of dual credit courses in which students were enrolled as of the census dates of all academic semesters or other academic terms that were reported in the fiscal year two years prior, multiplied by the Financial Aid for Swift Transfer (FAST) tuition rate as codified in §13.504 of this chapter (relating to Financial Aid for Swift Transfer (FAST) Tuition Rate) in the fiscal year two years prior.

§13.645. Performance Tier Funding.

(a) Each public junior college district shall receive Performance Tier funding under Texas Education Code, chapter 130A, subchapter C. A district increases its Performance Tier funding amount by producing Fundable Outcomes, with Fundable Outcomes achieved in certain categories eligible for an additional multiplier (Fundable Outcome Weights), as calculated by the Coordinating Board, in accordance with this subchapter, and subject to the limitations in §13.646(h) (relating to Performance Tier: Fundable Outcomes). A Fundable Outcome multiplied by the Fundable Outcome Weight constitutes a Weighted Outcome Completion. A district's Performance Tier funding amount equals the total of each Weighted Outcome Completion multiplied by the funding rates for that completion, as identified in §13.649 of this subchapter (relating to Performance Tier: Rates). Funding rates include an additional weight for fundable credentials delivered in a high-demand field.

(b) Fundable Outcomes. Section 13.646 of this subchapter (relating to Performance Tier: Fundable Outcomes) defines each Fundable Outcome type, including the methodology used to calculate each outcome.

(c) Fundable Outcome Weight. Section 13.647 of this subchapter (relating to Performance Tier: Fundable Outcome Weights) and subchapter T of this chapter (relating to Community College Finance Program: High-Demand Fields) define each Fundable Outcome

Weight type, including the methodology used to calculate each outcome. Fundable Outcome Weights consist of the following categories:

(1) Fundable Outcomes achieved by economically disadvantaged students;

(2) Fundable Outcomes achieved by academically disadvantaged students; and

(3) Fundable Outcomes achieved by adult learners.

(d) For the purposes of calculating Weighted Outcome Completions for formula funding amounts for a fiscal year, the Coordinating Board shall calculate the funded number of Weighted Outcome Completions as the greater of the average of the district's Weighted Outcome Completion counts for the fiscal year being funded and two fiscal years prior, as calculated by subchapter U of this chapter (relating to Community College Finance Program: Forecasting Methodology and Finance Policy), and the count for the fiscal year being funded, as calculated according to subchapter U.

(e) Fundable Outcome Rates. Section 13.648 of this subchapter (relating to Performance Tier: High-Demand Fields) and §13.649 of this subchapter defines fundable outcomes awarded in a high-demand field and the rates for each fundable outcome, including the higher rate for fundable credentials awarded in a high demand field.

§13.646. 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 §13.647 of this subchapter (relating to Performance Tier: Fundable Outcome Weights) as applicable, multiplied by the monetary rates identified in this subchapter. A credential's eligibility for funding as a fundable credential is subject to the limitations set out in subsection (h) of this section. 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) or paragraph (3) of this subsection using the most recent data available prior to the year in which the credential that is otherwise eligible for funding is conferred and that 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 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 third-party credential includes no fewer than the equivalent of nine (9) semester credit hours or 144 contact hours; or

(II) 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

(2) Credential of Value Baseline - Associate Degree. A credential identified in paragraph (1)(A)(i) of this subsection must meet the Credential of Value Baseline criteria as provided by this paragraph to be eligible as a Fundable Outcome, except when that credential is conferred under the fields appearing in Figure 1, according to the Classification of Instructional Programs promulgated by the U.S. Department of Education. When a credential identified in paragraph (1)(A)(i) of this subsection is conferred under fields appearing in Figure 1, it must meet the Credential of Value Baseline criteria as provided by paragraph (3) of this subsection to be eligible as a Fundable Outcome. Excluding the credentials identified in Figure 1, the baseline is met when a credential earned by a student would be expected to provide a positive return on investment and an individual self-sufficient wage within a period of five years.

Figure: 19 TAC §13.646(b)(2)

(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 five 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 for a period of two years.

(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) The Coordinating Board shall determine whether a credential is expected to provide an individual self-sufficient wage within a period of five years by comparing the median real wage, as adjusted based on the Consumer Price Index calculated by the U.S. Bureau of Labor Statistics, earned by all recipients of the credential in their fifth year after receiving the credential according to all available data to the individual self-sufficient wage defined in accordance with §13.643(26) of this subchapter (relating to Definitions).

(E) 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 Coordinating Board may utilize other 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) Credential of Value Baseline - Other Credentials. A credential identified in paragraph (1)(A)(ii), (1)(A)(iii), (1)(A)(iv), or (1)(A)(v) of this subsection and not subject to paragraph (2) of this subsection must meet the Credential of Value Baseline criteria as provided by this paragraph 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 Coordinating Board may 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.

(4) Notwithstanding subsection (h) of this section, 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) 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 §13.643(16) 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), or a private or independent institution of higher education as defined in Texas Education Code, §61.003(15) after earning at least 15 semester credit hours or semester credit hour equivalents (SCH) from a single public junior college district, subject to the following:

(A) The student is enrolled at a GAI or private or independent institution 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 junior 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 that has been submitted and certified to the Coordinating Board as defined in §13.643(34) of this subchapter, and no institution, including the institution that may be awarded a structured co-enrollment fundable outcome, has been funded for 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 §13.643(32) of this subchapter. A student must earn the Opportunity High School Diploma on or after September 1, 2024, to qualify as a Fundable Outcome.

(h) Fundable Outcome Parameters. The Commissioner of Higher Education retains sole discretion for determining compliance with the requirements of this subsection. An institution shall only be funded for credentials reported in compliance with this section.

(1) For a credential conferred in fiscal year 2026 to be eligible for funding, an institution must have conferred the credential in and reported the credential for fiscal year 2026, and the recipient must have earned the credential no earlier than June 1, 2025.

(A) An associate degree that the institution conferred in and reported for fiscal year 2026 shall also be eligible for funding if the student earned the last semester credit hour of the associate degree through the successful completion of coursework at an institution other than the institution conferring and reporting the credential no earlier than May 1, 2025.

(B) A credential earned prior to September 1, 2025, but reported for fiscal year 2026 and satisfying all other requirements of this paragraph must be conferred no later than December 31, 2025, to be eligible for funding.

(2) The coordinating board shall fund the following credentials, provided they meet all other criteria of fundable credentials of value:

(A) An Occupational Skills Award, an Institutional Credential Leading to Licensure or Certification, or Third-Party credential;

(B) Level I Certificate or Continuing Education Certificate;

(C) Level II Certificate;

(D) an associate degree;

(E) an advanced technical certificate;

(F) a baccalaureate degree; and

(G) Opportunity High School Diploma.

(3) An institution may not receive funding for more than one credential of each type listed in subsection (h)(2)(A) - (F), where each Subparagraph corresponds to a type, conferred to an individual student in a single reporting year.

(4) Subject to the limitations specified in this subsection, if an institution reports having conferred more than one credential of any single type listed in paragraph (2)(A) - (F) to an individual student in a single reporting year and conferred at least one such credential in a discipline designated as a high-demand field for that institution, as described in subchapter T of this chapter (relating to Community College Finance Program: High-Demand Fields), the coordinating board shall fund a credential in the high-demand field.

§13.647. Performance Tier: Fundable Outcome Weights.

(a) This section contains definitions of Fundable Outcome Weights that are applied to the Fundable Outcomes specified in §13.646 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 as referenced in §13.646 of this subchapter achieved by an economically disadvantaged student, as defined in §13.643(18) of this subchapter (relating to Definitions).

(2) For purposes of calculating economically disadvantaged for the Transfer 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, as referenced in §13.646 of this subchapter achieved by an academically disadvantaged student, as defined in §13.643(1) of this subchapter.

(2) For purposes of calculating academically disadvantaged for Transfer 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 as referenced in §13.646 of this subchapter achieved by an adult learner, as defined in §13.643(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, or Advanced Technical Certificate, as defined in §13.646(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 §13.646(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 §13.646(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.

§13.648. Performance Tier: High-Demand Fields.

An institution will receive an additional weight, as calculated by an increased funding rate for awarding a Fundable Credential described in §13.646 of this subchapter (relating to Performance Tier: Fundable Outcomes) for credentials delivered in disciplines designated as a High-Demand Field for that institution, as described in subchapter T of this chapter (relating to Community College Finance Program: High-Demand Fields).

§13.649. Performance Tier: Rates.

An institution receives the following rate for each fundable outcome, weighted according to the applicable provisions of §13.559 of this subchapter (relating to Performance Tier: Fundable Outcome Weights).

§13.650. Shared Services Report.

(a) This rule applies to each public junior college district of fewer than 5,000 full-time equivalent students which receives a scale adjustment under §13.644(b)(1)(C) of this subchapter (relating to Base Tier Allotment).

(b) Public junior colleges subject to this rule must submit a report on their participation in shared services to the Coordinating Board by November 1st of each even numbered year.

(c) The report will include information for each fiscal year in the previous two fiscal years in which a college received a scale adjustment.

§13.651. Effective Date of Rules.

This subchapter takes effect September 1, 2025, and is effective only for the calculation of fiscal year 2026 funding amounts and the calculation of fiscal year 2026 funding adjustments pursuant to subchapter U of this chapter (relating to Community College Finance Program: Forecasting Methodology and Finance Policy).

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 June 2, 2025.

TRD-202501898

Nichole Bunker-Henderson

General Counsel

Texas Higher Education Coordinating Board

Earliest possible date of adoption: July 13, 2025

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



CHAPTER 20. APPLICATIONS AND
ADMISSION FOR INSTITUTIONS OF HIGHER
EDUCATION
SUBCHAPTER B. FREE COLLEGE
APPLICATION WEEK

19 TAC §§20.30 - 20.34

The Texas Higher Education Coordinating Board (Coordinating Board) proposes new rules in Texas Administrative Code, Title 19, Part 1, Chapter 20, Subchapter B, §§20.30 - 20.34, concerning Free College Application Week. Specifically, this new section will establish the requirements for Texas public institutions of higher education to waive undergraduate admission application fees during Free College Application Week, as required by Texas Education Code, §61.0731.

The Coordinating Board has the authority to make rules to implement Free College Application week in October that will waive undergraduate admission application fees at any public institution, as defined in Texas Education Code, §61.003, starting with the 2025 - 2026 school year under Texas Education Code, §61.0731.

Dr. Brandon Griggs, Assistant Commissioner for College and Career Advising, has determined that for each of the first five years the section is in effect there would be no fiscal implications for state or local governments as a result of enforcing or administering the 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. Brandon Griggs, Assistant Commissioner for College and Career Advising, 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 to implement the legislation waiving undergraduate application fees throughout Free College Application Week. There are no anticipated economic costs to persons who are required to comply with the section as proposed. Although the statute does create economic costs to institutes of higher education, the rules implement the statute and do not create any additional economic costs.

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. Brandon Griggs, Assistant Commissioner for College and Career Advising, 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 new section is proposed under Texas Education Code, Section 61.0731, which provides the Coordinating Board with the authority to implement rules for Free College Application week in October that waive application fees for undergraduate admission at any public institution as defined in Texas Education Code, Section 61.003, each year starting in the 2025 - 2026 school year. Authority for the requirement that institutions link to MyTexasFuture.Org on their admissions websites is found in proposed Texas Education Code, Section 51.763.

The proposed new section affects rules in Texas Administrative Code, Title 19, Part 1, Chapter 20, Subchapter B.

§20.30. Purpose.

This subchapter establishes the requirements for Texas public institutions of higher education to waive undergraduate admission application fees during Free College Application Week, as required by Texas Education Code, §61.0731.

§20.31. Definitions.

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

(1) Free College Application Week--The week starting on the second Monday in October and continuing through the following Sunday, during which application fees for undergraduate admission shall be waived for Texas residents using the ApplyTexas application system.

(2) Institution of Higher Education--A public institution as defined in Texas Education Code, §61.003, that offers undergraduate courses including any public technical institute, public junior college, public senior college and university, or state college.

(3) Texas Resident--An individual who meets the residency requirements for in-state tuition under Texas Education Code, Chapter 54, Subchapter B.

(4) Undergraduate Admission Application--An application submitted for first-year freshman or undergraduate transfer admission.

§20.32. Fee Waiver Requirements.

Each institution of higher education in Texas shall:

(1) waive all undergraduate admission application fees for applications submitted by Texas residents using the ApplyTexas application system during Free College Application Week;

(2) ensure that the waiver applies automatically to all qualifying applicants and does not require separate fee waiver requests from the applicant; and

(3) publicly communicate the availability of Free College Application Week in a timely manner to prospective students, school counselors, and the public.

§20.33. Implementation and Accessibility.

(a) Institutions shall make necessary technical and administrative adjustments to their systems and processes to ensure compliance during College Application week each year.

(b) Each institution of higher education shall prominently post a link to MyTexasFuture.Org on their admissions websites with a notice to students that they can use the common application form found in ApplyTexas.Org or via MyTexasFuture.Org alongside any alternative application platform that the institution uses.

(c) Information about Free College Application Week and the fee waiver must be posted prominently on the institution's admissions website and communicated in English, Spanish, and any other languages commonly spoken by the institution's applicant population.

§20.34. Recordkeeping and Reporting.

Institutions shall maintain records of the number of applications submitted during Free College Application Week and any related communications or procedures.

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

Filed with the Office of the Secretary of State on June 2, 2025.

TRD-202501899

Nichole Bunker-Henderson

General Counsel

Texas Higher Education Coordinating Board

Earliest possible date of adoption: July 13, 2025

For further information, please call: (512) 427-6226



TITLE 25. HEALTH SERVICES

PART 1. DEPARTMENT OF STATE HEALTH SERVICES

CHAPTER 289. RADIATION CONTROL SUBCHAPTER F. LICENSE REGULATIONS

25 TAC §289.253

The executive commissioner of the Texas Health and Human Services Commission (HHSC), on behalf of the Department of State Health Services (DSHS), proposes an amendment to §289.253, concerning Radiation Safety Requirements for Well Logging Service Operations and Tracer Studies.

BACKGROUND AND PURPOSE

The proposal is necessary for Texas (an Agreement State) to comply with United States Nuclear Regulatory Commission (NRC) procedures, which require Agreement State rules to be compatible with NRC regulations. The amendment will correct the record retention requirements for well logging field stations and temporary job sites as defined in §289.253(cc).

Specifically, §289.253(cc)(2), Records/documents for inspection by the department, must be updated to reference only those records listed in the equivalent NRC regulation, 10 CFR §39.73

(Documents and records required at field stations). Additionally, §289.253(cc)(4), Records/documents for inspection by the department, must be updated to reference only those records listed in the equivalent NRC regulation, 10 CFR §39.75 (Documents and records required at temporary job sites). The items which must be retained for inspection by the department are listed in Figure: 25 TAC §289.253(ee)(5).

This update will ensure compatibility with NRC regulation and is consistent with the regulatory guidance used by licensees to establish their radiation safety programs.

SECTION-BY-SECTION SUMMARY

The proposed amendment to §289.253(cc)(2), records to be retained at field stations (additional authorized use/storage locations), updates references to §289.253(ee)(5)(C) - (F), (H) - (J), (L), (M), and (Q) to ensure compatibility with equivalent NRC regulation.

The proposed amendment to §289.253(cc)(4), records to be retained at temporary job sites, updates references to §289.253(ee)(5)(C), (J), (L), (M), and (P) to ensure compatibility with equivalent NRC regulation.

The proposal also updates, corrects, improves, and clarifies the rule language and incorporates plain language where appropriate.

FISCAL NOTE

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

GOVERNMENT GROWTH IMPACT STATEMENT

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

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

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

Christy Havel Burton has also determined there will be no adverse economic impact on small businesses, micro-businesses, or rural communities required to comply with the rule as proposed because small businesses, micro-businesses, and rural communities should not need to make changes to their business practices to comply with the rule when license conditions are applicable. The rule as proposed will not result in additional work for DSHS employees or other public entities.

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 ensure compliance with federal law.

PUBLIC BENEFITS AND COSTS

Dr. Timothy Stevenson, Deputy Commissioner, Consumer Protection Division, has determined for each year of the first five years the rule is in effect, the public benefit will be continued enhanced protection of the public, patients, workers, and the environment from unnecessary exposure to ionizing radiation. This is accomplished when rules are understandable, effective, specific, and harmonious with NRC rules.

Christy Havel Burton has also determined for the first five years the rule is in effect, there are no anticipated economic costs to persons required to comply with the proposed rule because those persons are already required to follow NRC regulations.

TAKINGS IMPACT ASSESSMENT

DSHS has determined 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 Guadalupe Street, Austin, Texas 78751; or by emailed to HHSRulesCoordinationOffice@hhs.texas.gov.

To be considered, comments must be submitted no later than 31 days after the date of this issue of the *Texas Register*. Comments must be (1) postmarked or shipped before the last day of the comment period; (2) hand-delivered before 5:00 p.m. on the last working day of the comment period; or (3) faxed or 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 or hand-delivered on the following business day to be accepted. When faxing or emailing comments, please indicate "Comments on Proposed Rule 25R021" in the subject line.

STATUTORY AUTHORITY

The amendment is authorized by Texas Health and Safety Code Chapter 401 (the Texas Radiation Control Act), which provides for DSHS radiation control rules and regulatory program to be compatible with federal standards and regulation; §401.051, which provides the required authority to adopt rules and guidelines relating to the control of sources of radiation; §401.052, which provides authority for rules providing for transportation and routing of radioactive material and waste in Texas; §401.103, which provides authority for licensing and registration for transportation of sources of radiation; §401.104 which provides for rulemaking authority for general or specific licensing of radioactive material and devices or equipment using radioactive material; §401.224, which provides rulemaking authority relating to the packaging of radioactive waste; Chapter 401, Subchapter J, which authorizes enforcement of the Act; and Texas Government Code §524.0151 and Texas Health and

Safety Code §1001.075, which authorize the Executive Commissioner of HHSC to adopt rules and policies for the operation and provision of health and human services by DSHS and for the administration of Texas Health and Safety Code Chapter 1001.

The amendment affects Texas Government Code §524.0151 and Texas Health and Safety Code Chapters 401 and 1001.

§289.253. *Radiation Safety Requirements for Well Logging Service Operations and Tracer Studies.*

(a) Purpose. This section establishes radiation safety requirements for persons using sources of radiation for well logging service operations, including radioactive markers, mineral exploration, and tracer studies.

(b) Scope.

(1) This section applies to all persons who use sources of radiation for well logging service operations, radioactive markers, mineral exploration, and tracer studies.

(2) In addition to the requirements of this section, persons are subject to the requirements of:

(A) §289.201 of this chapter (relating to General Provisions for Radioactive Material);

(B) §289.202 of this chapter (relating to Standards for Protection Against Radiation from Radioactive Materials);

(C) §289.203 of this chapter (relating to Notices, Instructions, and Reports to Workers; Inspections);

(D) §289.204 of this chapter (relating to Fees for Certificates of Registration, Radioactive Material Licenses, Emergency Planning and Implementation, and Other Regulatory Services);

(E) §289.205 of this chapter (relating to Hearing and Enforcement Procedures);

(F) §289.226 of this chapter (relating to Registration of Radiation Machine Use and Services);

(G) §289.229 of this chapter (relating to Radiation Safety Requirements for Accelerators, Therapeutic Radiation Machines, Radiation Therapy Simulation Systems, and Electronic Brachytherapy Devices);

(H) §289.231 of this chapter (relating to General Provisions and Standards for Protection Against Machine-Produced Radiation);

(I) §289.252 of this subchapter (relating to Licensing of Radioactive Material); and

(J) §289.257 of this subchapter (relating to Packaging and Transportation of Radioactive Material).

(c) Definitions. The following words and terms when used in this section have the following meaning unless the context clearly indicates otherwise.

(1) Energy compensation source (ECS)--A small, sealed source with an activity not exceeding 100 microcuries (μCi) (3.7 megabecquerel (MBq)), used within a logging tool or other tool component, to provide a reference standard to maintain the tool's calibration when in use.

(2) Field station (additional authorized use/storage location)--A facility where sources of radiation may be stored or used and from which equipment is dispatched to temporary job sites.

(3) Injection tool--A device used for subsurface or down-hole controlled injection of radioactive tracer material.

(4) Logging assistant (equipment operator)--Any individual who, under the personal supervision of a logging supervisor, handles sealed sources or tracers that are not in logging tools or shipping containers or who performs surveys required by subsection (bb) of this section.

(5) Logging supervisor (field engineer)--The individual who provides personal supervision of the use of sources of radiation at temporary job sites.

(6) Logging tool--A device used subsurface to perform well logging.

(7) Mineral logging--Any logging performed for the purpose of mineral exploration other than oil or gas.

(8) Personal supervision--Guidance and instruction by the supervisor, who is physically present at the job site and in such proximity that visual contact can be maintained and immediate assistance given as required.

(9) Radiation safety officer--An individual named by the licensee or registrant and listed on the license or certificate of registration having knowledge of, responsibility for, and authority to enforce appropriate radiation protection rules, standards, and practices on behalf of the licensee or registrant, and who meets the requirements of subsection (s) of this section.

(10) Radioactive marker--Radioactive material placed subsurface or upon a structure intended for subsurface use for the purpose of depth determination or direction orientation.

(11) Residential location--Any area where a structure or structures are located, in which people live, and the grounds on which these structures are located, including houses, apartments, condominiums, and garages.

(12) Screenout--A situation in which radioactive tracer material is reversed out of an oil or gas well (well returns).

(13) Service company--Any contracted or subcontracted company that is present at the temporary job site specifically, a company whose equipment is connected to licensee's equipment and exposed to radioactive material.

(14) Source holder--A housing or assembly into which a radioactive source is placed for the purpose of facilitating the handling and use of the source.

(15) Storage container--A container used to secure and store radioactive sources.

(16) Temporary job site--A location where well logging or tracer studies are performed other than the specific locations listed on a license or certificate of registration.

(17) Tracer study--The release of a substance tagged with radioactive material for the purpose of tracing the movement or position of the tagged substance in the wellbore, at the wellhead, or adjacent formation.

(18) Transport container--A container that meets the requirements of the United States Department of Transportation (DOT) and is designed to provide radiation safety and security when sources of radiation are being transported.

(19) Tritium neutron generator target source--A tritium source used within a neutron generator tube to produce neutrons for use in well logging applications.

(20) Uranium sinker bar--A weight containing depleted uranium used to aid in the descent of a logging tool down toward the bottom of a wellbore.

(21) Wellbore--A drilled hole in which wireline service operations are performed.

(22) Well logging--All operations involving the lowering and raising of measuring devices or logging tools (that may or may not contain sources of radiation) into wellbores or cavities for the purpose of obtaining information about the well or adjacent formations.

(23) Wireline--An armored steel cable, containing one or more electrical conductors, used to lower and raise logging tools in the wellbore.

(24) Wireline service operation--Any mechanical or electronic service that is performed in the wellbore using devices that are lowered into the well on a wireline for purposes of evaluation.

(d) Specific licenses for well logging.

(1) The applicant must satisfy the general requirements specified in this subsection and in §289.252(e) of this subchapter.

(2) The applicant must develop a program for training logging supervisors and logging assistants and submit to the department a description of this program ~~that~~ ~~[which]~~ specifies:

(A) initial training;

(B) on-the-job training;

(C) annual safety reviews provided by the licensee;

(D) how the applicant will demonstrate the logging supervisor's knowledge and understanding of and ability to comply with the department's regulations and licensing requirements and the applicant's operating and emergency procedures; and

(E) how the applicant will demonstrate the logging assistant's knowledge and understanding of and ability to comply with the applicant's operating and emergency procedures.

(3) The applicant must submit to the department written operating and emergency procedures as described in subsection (ee)(4) of this section.

(4) The applicant must establish and submit to the department its program for annual inspections of the job performance of each logging supervisor to ensure the department's regulations, license requirements, and the applicant's operating and emergency procedures are followed. Inspection records must be retained for three years after each annual internal inspection.

(5) The applicant must submit a description of its overall organizational structure as it applies to the radiation safety responsibilities in well logging, including specified delegations of authority and responsibility.

(6) If an applicant wants to perform leak testing of sealed sources, the applicant must identify the manufacturers and the model numbers of the leak test kits used. If the applicant wants to analyze its own wipe samples, the applicant must establish procedures to follow and submit a description of these procedures to the department. The description must include the:

(A) instruments used;

(B) methods of performing the analysis; and

(C) pertinent experience of the person who will analyze the wipe samples.

(e) Prohibitions.

(1) Licensees must not perform well logging service operations with a sealed source in any well or wellbore unless, before commencement of the operation, the licensee has a written agreement with the well operator, well owner, drilling contractor, or ~~landowner~~ ~~[land owner]~~, that specifies who will be responsible for ensuring:

(A) a reasonable effort at recovery will be made in the event a sealed source is lost or lodged downhole;

(B) a person does not attempt to recover a sealed source in a manner that, in the licensee's opinion, could result in a source rupture;

(C) if the environment, any equipment, or personnel are contaminated with radioactive material, decontamination to levels specified in §289.202(f), (n), and (ee) of this chapter are performed; and

(D) the requirements of subsection (dd)(4) of this section are met if a decision is made to abandon the sealed source downhole.

(2) Licensees must not perform tracer study operations with a substance tagged with radioactive material in any well or wellbore unless, before commencement of the operation, the licensee has a written agreement with the well operator, well owner, drilling contractor, or ~~landowner~~ ~~[land owner]~~, and the service company to which the licensee's equipment is connected, as applicable, specifying who is responsible for ensuring:

(A) in the event the service company's personnel or equipment are contaminated with radioactive material, they will be decontaminated as specified in §289.202(n) or (ddd) of this chapter before release from the job site or release for unrestricted use, respectively;

(B) in the event the well head or job site is contaminated with radioactive material, it will be decontaminated as specified in §289.202(ddd) of this chapter; and

(C) in the event radioactive material is reversed from the well or the well screens out, the licensee will have established procedures and equipment or facilities to:

(i) reverse material into a preconstructed steel or lined pit that is specifically established in the event of a screen out; or

(ii) reverse material into a suitable transport container or containers in the event of a screen out.

(3) The licensee must maintain, as specified in subsection (ee)(5) of this section, a copy of the written agreement specified in paragraph (1) or (2) of this subsection.

(f) Limits on levels of radiation. Sources of radiation must be used, stored, and transported in such a manner that the requirements of §289.202 of this chapter, §289.231 of this chapter, and §289.257 of this subchapter, as applicable, are met.

(g) Storage precautions.

(1) Each source of radiation, except accelerators, must be provided with a storage or transport container. Each container must have a lock (or tamper seal for calibration sources) to prevent unauthorized removal of, or exposure to, the source of radiation.

(2) Each area or room in which sources of radiation are stored must be posted as specified in §289.202(aa)(5) or §289.231(x) of this chapter, as applicable.

(3) Sources of radiation, except accelerators, must be stored downhole or in a bunker to minimize the danger from explosion or fire.

(4) Sources of radiation may not be stored in residential locations unless specifically authorized by the department.

(5) Sources of radiation in storage must be secured to prevent tampering or removal by unauthorized individuals.

(h) Transport precautions. Transport containers must be locked and physically secured to the transporting vehicle to prevent shifting during transport, accidental loss, tampering, or unauthorized removal.

(i) Radiation survey instruments.

(1) The licensee or registrant must maintain a sufficient number of calibrated and operable radiation survey instruments capable of detecting beta and gamma radiation at each location where sources of radiation are stored or used to make physical radiation surveys, as required by this section and by §289.202(p) or §289.231(s) of this chapter, as applicable. Instrumentation must be capable of measuring 0.1 milliroentgen per hour (mR/hr) (1 microsievert per hour (µSv/hr)) through at least 50 mR/hr (500 µSv/hr). (Instrumentation capable of measuring 0.1 mR/hr (1 µSv/hr) through 50 mR/hr (500 µSv/hr) may not be sufficient to determine compliance with DOT requirements.)

(2) A licensee using tracer material must have available at each additional authorized use/storage location and temporary job site, additional calibrated and operable radiation survey instruments sensitive enough to detect the radioactive surface contamination limits specified in §289.202(eee) of this chapter.

(3) Each radiation survey instrument required under paragraph (1) of this subsection must be calibrated:

(A) by a person specifically licensed or registered by the department, another agreement state, or the United States Nuclear Regulatory Commission (NRC) to perform such service;

(B) at intervals not to exceed six months and after each survey instrument repair;

(C) for the types of radiation used and at energies appropriate for use; and

(D) at an accuracy within plus or minus 20 percent of the true radiation level at each calibration point.

(4) The licensee or registrant must maintain calibration records as specified in subsection (ee)(5) of this section.

(j) Leak testing of sealed sources.

(1) Testing and record keeping. Sealed sources must be tested for leakage and contamination as specified in this section and §289.201(g) of this chapter. The licensee must maintain records of leak tests as specified in subsection (ee)(5) of this section.

(2) Each energy compensation source that is not exempt from testing as specified in §289.201(g)(2) of this chapter must be tested at intervals not to exceed three years. In the absence of a certificate from a transferor that a test has been made within the three years before the transfer, the energy compensation source must not be used until tested as specified in §289.201(g) of this chapter.

(3) If a sealed source is found to be leaking as specified in §289.201(g) of this chapter, the licensee must check the equipment associated with the leaking source for radioactive contamination and, if

contaminated, have it decontaminated or disposed of by persons specifically authorized by the department, the NRC, or an agreement state, to perform such services.

(k) Quarterly inventory. Each licensee or registrant must conduct a physical inventory to account for all sources of radiation received or possessed at intervals not to exceed three months. The licensee or registrant must make and maintain records of inventories as specified in subsection (ee)(5) of this section and must include:

- (1) the quantities and kinds of sources of radiation;
- (2) the location where sources of radiation are assigned;
- (3) the unique identification of each source of radiation;
- (4) the date of the inventory; and
- (5) the name of the individual conducting the inventory.

(l) Utilization records. For each source of radiation, utilization records must be maintained by each licensee or registrant as specified in subsection (ee)(5) of this section and must include:

(1) identification of each source of radiation, including:

(A) the make and model number or serial number (or if absent, a description) of each sealed source used; or

(B) the radionuclide and activity of tracer materials and radioactive markers used at a particular well site and the disposition of any unused tracer materials;[;]

(2) the identity of the logging supervisor or individual who is responsible for receiving sources of radiation, to whom assigned; and

(3) the locations where used and dates of use.

(m) Design and performance criteria for sealed sources used in well logging operations.

(1) Each sealed source used in well logging applications must meet the following minimum criteria.

(A) The sealed source is of doubly encapsulated construction.

(B) The sealed source contains radioactive material with a chemical/physical form as insoluble and non-dispersible as practicable.

(C) The sealed source meets one of the following requirements:

(i) for a sealed source manufactured on or before July 14, 1989, the requirements from the United States of America Standards Institute (USASI) N5.10-1968, "Classification of Sealed Radioactive Sources," or the requirements in clause (ii) or (iii) of this subparagraph;

(ii) for a sealed source manufactured after July 14, 1989, the oil-well logging requirements from the American National Standards Institute/Health Physics Society (ANSI/HPS) N43.6-1997, "Sealed Radioactive Sources-Classification";[;] or

(iii) for a sealed source manufactured after July 14, 1989, the sealed source's prototype has been tested and found to maintain its integrity after each of the following tests;[;]

(I) Temperature. The test source must be held at negative 40 degrees Celsius for 20 minutes, 600 degrees Celsius for one hour, and then be subjected to a thermal shock test with a temperature drop from 600 degrees Celsius to 20 degrees Celsius within 15 seconds.

(II) Impact. A 5 kilogram (kg) steel hammer, 2.5 centimeters (cm) in diameter, must be dropped from a height of 1 meter (m) onto the test source.

(III) Vibration. The test source must be subjected to a vibration from 25 Hertz (Hz) to 500 Hz with a peak amplitude of five times the acceleration of gravity for 30 minutes.

(IV) Puncture. A 1 gram (g) hammer and pin, 0.3 cm pin diameter, must be dropped from a height of 1 m onto the test source.

(V) Pressure. The test source must be subjected to an external pressure of 24,600 pounds per square inch absolute (1.695 x 10⁷ pascals) without leakage.

(2) The requirements in paragraph (1) of this subsection do not apply to sealed sources containing radioactive material in gaseous form.

(3) The requirements in this subsection do not apply to energy compensation sources.

(n) Labeling.

(1) Each source, source holder, or logging tool containing radioactive material in other than an exempt quantity must bear a durable, legible, and clearly visible marking or label, including, at [as] a minimum, the standard radiation caution symbol with no color requirement, and the wording "DANGER (or CAUTION), RADIOACTIVE-DO NOT HANDLE, NOTIFY CIVIL AUTHORITIES (OR NAME OF COMPANY)."

(2) The labeling specified in paragraph (1) of this subsection must be on the smallest component, source, source holder, or logging tool that is transported as a separate piece of equipment containing radioactive material.

(3) Each transport container must have permanently attached a durable, legible, and clearly visible label having, at [as] a minimum, the standard radiation caution symbol and the wording "DANGER (or CAUTION), RADIOACTIVE, NOTIFY CIVIL AUTHORITIES (OR NAME OF COMPANY)."

(4) Each transport container must have attached a durable, legible, and clearly visible label having, at a minimum, the licensee's name, address, and telephone number, the radionuclide, its activity, and assay date.

(o) Inspection and maintenance.

(1) Each licensee or registrant must conduct, at intervals not to exceed six months, a program of visual inspection and maintenance of source holders (or sealed source, if there is no source holder), logging tools, source handling tools, storage containers, transport containers, and injection tools to assure proper labeling and physical condition. The inspection program may be performed concurrently with routine leak testing of sealed sources. Records of inspection and maintenance must be made and maintained by the licensee or registrant as specified in subsection (ee)(5) of this section.

(2) If any inspection conducted as specified in paragraph (1) of this subsection reveals damage to labeling or components critical to radiation safety, the device must be removed from service at the time the damage is discovered and until repairs have been made.

(3) Any operation, such as drilling, cutting, or chiseling on a source holder containing a sealed source, must be performed on the source holder only by persons specifically licensed to do so by the department, another agreement state, or the NRC. The provisions of this paragraph do not apply to logging tool recovery (fishing) operations

conducted as specified in the provisions of subsection (dd)(4) of this section.

(4) The repair, opening, or modification of any sealed source must be performed only by persons specifically licensed to do so by the department, another agreement state, or the NRC.

(p) Training requirements.

(1) Licensees or registrants must not permit any individual to act as a logging supervisor until such individual has:

(A) completed a course including at least 24 hours of formal training in the subjects outlined in subsection (ee)(1) of this section;

(B) received copies of and instruction in:

(i) the requirements contained in this section and the applicable subsections of §§289.201, 289.202, 289.203, and 289.231 of this chapter or their equivalent;

(ii) the conditions of the appropriate license or certificate of registration; and

(iii) the licensee's or registrant's operating, safety, and emergency procedures;

(C) demonstrated understanding of the requirements in subparagraphs (A) and (B) of this paragraph by successfully completing a written examination administered by the licensee or registrant;

(D) completed two months of on-the-job training under the supervision of a logging supervisor; and

(E) demonstrated, through a field evaluation, competence in the use of sources of radiation, related handling tools, and the type of radiation survey instruments that will be used in the job assignment.

(2) Licensees or registrants must not permit any individual to act as a logging assistant until such individual has:

(A) received copies of and instruction in the applicable subsections of §§289.201, 289.202, 289.203, and 289.231 of this chapter or their equivalent, and the licensee's or registrant's operating, safety, and emergency procedures;

(B) demonstrated understanding of the requirements in subparagraph (A) of this paragraph by successfully completing a written examination administered by the licensee or registrant; and

(C) demonstrated competence to use, under the personal supervision of the logging supervisor, the sources of radiation, related handling tools, and radiation survey instruments used in the job assignment.

(3) The licensee or registrant must provide an annual radiation safety review for logging supervisors and logging assistants.

(4) Each licensee or registrant must maintain records documenting the requirements of paragraphs (1) - (3) of this subsection are met. Such records must be maintained as specified in subsection (ee)(5) of this section.

(q) Operating, safety, and emergency procedures. The licensee or registrant must maintain written operating, safety, and emergency procedures that include descriptions of and directions in at least the items listed in subsection (ee)(4) of this section.

(r) Personnel monitoring.

(1) In addition to the requirements of §289.202(p)(4) and (q) of this chapter or §289.231(n) and (s)(3) of this chapter, as appli-

cable, no licensee or registrant may permit any individual to act as a logging supervisor or logging assistant unless that individual wears an individual monitoring device at all times during well logging service operations or tracer studies utilizing sources of radiation. Each individual monitoring device must be assigned to and worn by only one individual. Film badges must be replaced at least monthly. Other individual monitoring devices requiring replacement must be replaced at least quarterly. After replacement, each individual monitoring device requiring processing must be returned to the supplier for processing within 14 calendar days or as soon as practicable. All individual monitoring devices must be evaluated at least quarterly or promptly after replacement, whichever is more frequent. Circumstances preventing meeting these time limits must be documented, and those records must be available for review by the department.

(2) When necessary to aid in determining the extent of an individual's intake of radioactive material, the department may require a licensee or registrant to make available to the individual, appropriate bioassay services and to furnish a copy of the reports of such services to the department.

(3) Personnel monitoring records must be maintained by the licensee or registrant as specified in subsection (ee)(5) of this section.

(s) Radiation safety officer.

(1) A radiation safety officer (RSO) must be designated for every license and certificate of registration issued by the department.

(2) The RSO's documented qualifications must include:

(A) possession of a high school diploma or a certificate of high school equivalency based on the General Education Development (GED) test;

(B) completion of the training and testing requirements of subsection (p)(1) of this section; and

(C) two years of experience as a logging supervisor, including knowledge of well logging service operations and tracer studies.

(3) The duties of the RSO include:

(A) establishing and overseeing operating, safety, emergency, and as low as reasonably achievable (ALARA) procedures, and reviewing them regularly to ensure the procedures are current and conform with this chapter;

(B) overseeing and approving all phases of the training program for well logging service operations and tracer studies personnel so that appropriate and effective radiation protection practices are taught;

(C) ensuring required radiation surveys and leak tests are performed and documented as specified in this chapter, including any corrective measures when levels of radiation exceed established limits;

(D) ensuring personnel monitoring is used properly by occupationally exposed personnel, records are kept of the monitoring results, and timely notifications are made, as required by §289.203 of this chapter;

(E) investigating and reporting to the department each known or suspected case of radiation exposure to an individual or radiation level detected over the limits established by this chapter and each theft or loss of each source of radiation, determining the cause, and taking steps to prevent [its] recurrence;

(F) having a thorough knowledge of management policies and administrative procedures of the licensee or registrant;

(G) assuming control and having the authority to institute corrective actions, including shutdown of operations, when necessary in emergency situations or unsafe conditions;

(H) maintaining records as required by this chapter (see subsection (ee)(5) of this section);

(I) ensuring the proper storing, labeling, transport, and use of sources of radiation, storage, and transport containers;

(J) ensuring inventories are performed as specified in subsection (k) of this section;

(K) ensuring personnel are complying with this chapter, the conditions of the license or the registration, and the operating, safety, and emergency procedures of the licensee or registrant; and

(L) serving as the primary contact with the department.

(t) Security.

(1) A logging supervisor must be physically present at a temporary job site whenever radioactive material is being handled or is not stored and locked in a vehicle or storage place. The logging supervisor may leave the job site to obtain assistance if a sealed source becomes lodged in a well.

(2) During well logging, except when sealed sources are below ground or in shipping or storage containers, the logging supervisor or other individual designated by the logging supervisor must maintain direct surveillance of the operation to prevent unauthorized entry into a restricted area, as defined in §289.201(b) of this chapter, or §289.231(c) of this chapter, as applicable.

(u) Handling tools. The licensee must provide and require the use of tools that assure remote handling of sealed sources, other than low activity calibration sources.

(v) Tracer studies.

(1) Appropriate protective clothing and equipment must be used by all personnel handling radioactive tracer material. Precautions must be taken to avoid ingestion or inhalation of radioactive material and to avoid contamination of field stations, temporary job sites, vehicles, associated equipment, and clothing.

(2) Licensees may not permit the injection of radioactive material into usable quality groundwater (3,000 parts per million (ppm) total dissolved solids or less) without prior written authorization from the department.

(3) The well operator must contact the licensee when a decision is made to reverse the radioactive tracer material out of a well. The licensee must be onsite and present at the well when radioactive tracer material is reversed out of a well.

(w) Particle accelerators. Licensees or registrants must not permit above-ground testing of particle accelerators that results in the production of radiation except in areas or facilities controlled or shielded to meet the requirements of §289.202(f) or (n) of this chapter, or §289.231(m) or (o) of this chapter, as applicable.

(x) Radioactive markers. The licensee may use radioactive markers in wells only if the individual markers contain quantities of radioactive material not exceeding the quantities specified in §289.251(1)(2) of this subchapter (relating to Exemptions, General Licenses, and General License Acknowledgements). The use of markers is subject only to the provisions of this subsection and subsection (k) of this section.

(y) Uranium sinker bars. The licensee may use a depleted uranium sinker bar in well logging service operations only if it is legibly impressed with the wording "DANGER (or CAUTION), RADIOACTIVE-DEPLETED URANIUM, NOTIFY CIVIL AUTHORITIES (OR NAME OF COMPANY) IF FOUND."

(z) Energy compensation source (ECS).

(1) The licensee may use an ECS that is contained within a logging tool or other tool components.

(2) For well logging applications with a surface casing for protecting freshwater aquifers, use of the ECS is only subject to the requirements of subsections (j), (k), and (l) of this section.

(3) For well logging applications without a surface casing for protecting freshwater aquifers, use of the ECS is only subject to the requirements of subsections (e), (j), (k), (l), (dd), and (ee)(4)(A) of this section.

(aa) Tritium neutron generator target source.

(1) Use of a tritium neutron generator target source, containing quantities not exceeding 30 curies (Ci) (1,110 gigabecquerels (GBq)) and in a well with a surface casing to protect freshwater aquifers, is subject to the requirements of this section, except subsections (e), (m), and (dd) of this section.

(2) Use of a tritium neutron generator target source, containing quantities exceeding 30 Ci (1,110 GBq) or in a well without a surface casing to protect freshwater aquifers, is subject to the requirements of this section, except subsection (m) of this section.

(bb) Radiation surveys.

(1) Radiation surveys (and calculations for neutron sources) must be made and recorded for each area where radioactive materials are stored.

(2) Radiation surveys (and calculations for neutron sources) of the radiation levels in occupied positions and on the exterior of each vehicle used to transport radioactive materials must be made and recorded. Such surveys (and calculations for neutron sources) must include all sources of radiation transported in the vehicle.

(3) If the sealed source assembly is removed from the logging tool before departing the job site, a survey of the tool to verify that the logging tool is free of contamination must be made and recorded.

(4) If the encapsulation of the sealed source has been damaged by an operation or is likely to have been damaged by an operation, the licensee must immediately conduct a radiation survey and make a record of that survey, including a contamination survey, during and after the operation.

(5) Radiation surveys must be made and recorded at the job site and well head for each tracer operation except for those utilizing hydrogen-3, carbon-14, sulfur-35, or krypton-85. These surveys must include measurements of radiation levels before and after the operation.

(6) Records required as specified in paragraphs (1) - (5) of this subsection must include the dates, the identification of personnel making the survey, the unique identification of survey instruments used, radiation measurements in milliroentgen per hour (mR/hr), calculations in millirem per hour (mrem/hr) or microsievert per hour (μ Sv/hr), and an exact description of the location of the survey. Each licensee or registrant must make and maintain records of these surveys as specified in subsection (ee)(5) of this section.

(cc) Records/documents for inspection by the department.

(1) Each licensee or registrant must maintain the records/documents specified in subsection (ee)(5) of this section.

(2) Each licensee or registrant maintaining additional authorized use/storage locations from which well logging service operations are conducted must have copies of the records/documents specified in subsection (ee)(5)(C) - (F), (H) - (J), (L), (M), and (Q) [~~(ee)(5)(B) - (E) and (G) - (O)~~] of this section that are specific to the site, available at each site.

(3) Records/documents required as specified in paragraph (2) of this subsection must be maintained as specified in subsection (ee)(5) of this section.

(4) Each licensee or registrant conducting well logging service operations at a temporary job site must have copies of the records/documents specified in subsection (ee)(5)(C), (J), (L), (M), and (P) [~~(ee)(5)(B), (C), (I), (K), (L), and (N)~~] of this section available at that site.

(5) Records/documents required by paragraph (4) of this subsection must be maintained at the temporary job site for the period of operation at that site.

(dd) Notification of incidents and lost sources; abandonment procedures for irretrievable sources.

(1) Notification of incidents and sources lost in other than downhole well logging operations must be made as specified in appropriate provisions of §289.202 of this chapter, or §289.231 of this chapter, as applicable.

(2) Whenever a sealed source or a device containing radioactive material has been ruptured or is likely to have been ruptured, the licensee must notify the department immediately by telephone and submit written notification within 30 days. The written notification must designate:

- (A) the well or other location;
- (B) the magnitude and extent of the escape of radioactive material;
- (C) the consequences of the rupture; and
- (D) the efforts planned or being taken to mitigate these consequences.

(3) Whenever a sealed source is separated from the logging tool and is lost downhole, the licensee must notify the department immediately by telephone before beginning source recovery operations.

(4) Whenever a sealed source or device containing radioactive material is lost downhole, the licensee must:

(A) consult with the well operator, well owner, drilling contractor, or landowner regarding methods to retrieve the source or device that may reduce the likelihood that the source or device will be damaged or ruptured during [~~the~~] logging tool recovery (fishing) operations;

(B) continuously monitor the circulating fluids from the well, if any, during logging tool recovery (fishing) operations to check for contamination resulting from damage to the sealed source with an appropriate radiation detection instrument or a logging tool with a radiation detector; and

(C) notify the department immediately by telephone and submit written notification within 30 days if radioactive contamination is detected at the surface or if the source appears to be damaged.

(5) When efforts to recover the radioactive source are not successful, the licensee must:

(A) notify the department by telephone of the circumstances that resulted in the inability to retrieve the source and obtain approval from the department to implement abandonment procedures, or that the licensee implemented abandonment before receiving approval from the department because the licensee believed there was an immediate threat to public health and safety; and

(B) advise the well operator of the Railroad Commission of Texas requirements regarding abandonment and an appropriate method of abandonment, that includes:

(i) the immobilization and sealing in place of the radioactive source with a cement plug;

(ii) a means to prevent inadvertent intrusion on the source, such as the setting of a whipstock or other deflection device, unless the source is not accessible to any subsequent drilling operations; and

(iii) the mounting of a permanent identification plaque, containing information required by paragraph (6) of this subsection, at the surface of the well;

(C) notify the department by telephone, giving the circumstances of the loss; and

(D) file a written report with the department within 30 days of the abandonment, providing:

(i) the date of occurrence;

(ii) a description of the radioactive source involved, including radionuclide, activity, chemical and physical form, and manufacturer, model number and serial number;

(iii) the surface location and identification of the well;

(iv) the results of efforts to immobilize and seal the source in place;

(v) the depth of the radioactive source;

(vi) the depth of the top of the cement plug;

(vii) the depth of the well; and

(viii) the information contained on the permanent identification plaque.

(6) Whenever a sealed source containing radioactive material is abandoned downhole, the licensee must provide a permanent plaque (an example of a suggested plaque is shown in subsection (ee)(3) of this section) for posting on the well or wellbore. This plaque must:

(A) be constructed of long-lasting material such as stainless steel, brass, bronze, or monel. The size of the plaque should be convenient for use on active or inactive wells; for example, a 7-inch (17 cm) square. Letter size of the word "CAUTION" should be approximately twice the letter size of the rest of the information; for example, 1/2 inch (1.27 cm) and 1/4 inch (0.63 cm) letter size, respectively; and

(B) contain the following engraved information on its face:

(i) the word "CAUTION";

(ii) the radiation symbol (color not required);

(iii) the date of abandonment;

(iv) the name of the well operator or well owner;

(v) the well name and well identification number or other designation;

(vi) radionuclides and activities of the sources;

(vii) the source depth and the plug back depth (depth to the top of the plug); and

(viii) an appropriate warning, depending on the specific circumstances of each abandonment, such as:

(I) "Do not drill below plug back depth";

(II) "Do not enlarge casing"; or

(III) "Do not re-enter hole before contacting Radiation Control, Texas Department of State Health Services."

(7) The licensee must immediately notify the department by telephone and confirming letter if the licensee knows or has reason to believe that radioactive material has been lost in or to an underground potable water source. Such notice must designate well location and describe the magnitude and extent of loss of radioactive material, consequences of such loss, and efforts taken or planned to mitigate these consequences.

(8) In the event of an uncontrolled release of radioactive tracer material to the environment, the licensee must notify the department by telephone within 24 hours and submit written notification within 30 days.

(ee) Appendices.

(1) Subjects to be included in training courses for well logging service operations and tracer studies are as follows:

(A) fundamentals of radiation safety that include:

(i) characteristics of radiation;

(ii) units of radiation dose (rem) and activity;

(iii) significance of radiation dose specifying radiation protection standards and biological effects of radiation;

(iv) levels of radiation from sources of radiation;

(v) methods of controlling radiation dose specifying time, distance, and shielding;

(vi) radiation safety practices, specifying prevention of contamination and methods of decontamination; and

(vii) discussion of ingestion and inhalation pathways;

(B) radiation detection instrumentation to be used that includes:

(i) use of radiation survey instruments specifying operation, calibration, and limitations;

(ii) survey techniques; and

(iii) use of individual monitoring devices;

(C) equipment to be used that specifies:

(i) handling equipment and remote handling tools;

(ii) sources of radiation;

(iii) storage control, disposal, and transport of equipment and sources of radiation;

(iv) operation and control of equipment; and

(v) maintenance of equipment;

- (D) pertinent federal and state requirements;
- (E) the licensee's or registrant's written operating, safety, and emergency procedures;
- (F) the licensee's or registrant's record keeping procedures; and
- (G) case histories and potential consequences of accidents in well logging service operations and tracer studies.

(2) In addition to the subjects for training courses required in paragraph (1) of this subsection, individuals performing tracer studies must also complete training in the following subjects:

- (A) sources of contamination;
- (B) contamination detection and control;
- (C) decontamination techniques and limits;
- (D) survey techniques for tracer materials; and
- (E) packaging requirements for transportation of radioactive materials, especially residual materials from tracer studies.

(3) The following is an example of a plaque for identifying wells containing sealed sources of radioactive material abandoned downhole.:

Figure: 25 TAC §289.253(ee)(3) (No change.)

(4) The licensee's or registrant's operating, safety, and emergency procedures must include descriptions of and instructions in:

- (A) the handling and use of sources of radiation in wells without surface casing for protecting freshwater aquifers, if appropriate;
- (B) the handling and use of sources of radiation to be employed so that no individual is likely to be exposed to radiation doses over the limits established in §289.202 of this chapter, or §289.231 of this chapter, as applicable; every [~~Every~~] reasonable effort must be made to keep radiation exposures and releases of radioactive material in soils and effluents to unrestricted areas as low as is reasonably achievable;
- (C) methods and occasions for conducting radiation surveys;
- (D) methods and occasions for locking and securing sources of radiation;
- (E) personnel monitoring, including bioassays, and the use of individual monitoring devices;
- (F) removing radioactive material from storage, transporting radioactive material to field locations and temporary job sites, including packaging of sources of radiation in the vehicles, placarding of vehicles, securing sources of radiation during transportation, and returning to storage;

(G) minimizing exposure of individuals during routine use and in the event of an accident;

(H) notifying proper personnel in the event of an accident or well excursion;

(I) maintaining records;

(J) using, inspecting, and maintaining source holders, logging tools, source handling tools, storage containers, transport containers, and injection tools;

(K) actions to be taken if a sealed source is lost or lodged downhole;

(L) picking up, receiving, handling, and opening packages containing radioactive material;

(M) surveying temporary job sites and equipment, and decontamination of vehicles, associated equipment, and clothing following tracer studies;

(N) storing and disposing of radioactive waste;

(O) laundering contaminated clothing, if applicable;

(P) the licensee's or registrant's management structure;

(Q) posting of radiation areas and labeling radioactive material containers;

(R) actions to be taken if there is an uncontrolled release of radioactive tracer material to the environment; and

(S) actions to be taken if a sealed source is ruptured, including actions preventing the spread of contamination and minimizing inhalation and ingestion of radioactive material, and actions to obtain suitable radiation survey instruments as required by subsection (i) of this section.

(5) The following records/documents must be maintained by the licensee or registrant for inspection by the department.

Figure: 25 TAC §289.253(ee)(5)

[Figure: 25 TAC §289.253(ee)(5)]

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 May 30, 2025.

TRD-202501891

Cynthia Hernandez

General Counsel

Department of State Health Services

Earliest possible date of adoption: July 13, 2025

For further information, please call: (512) 834-6655

