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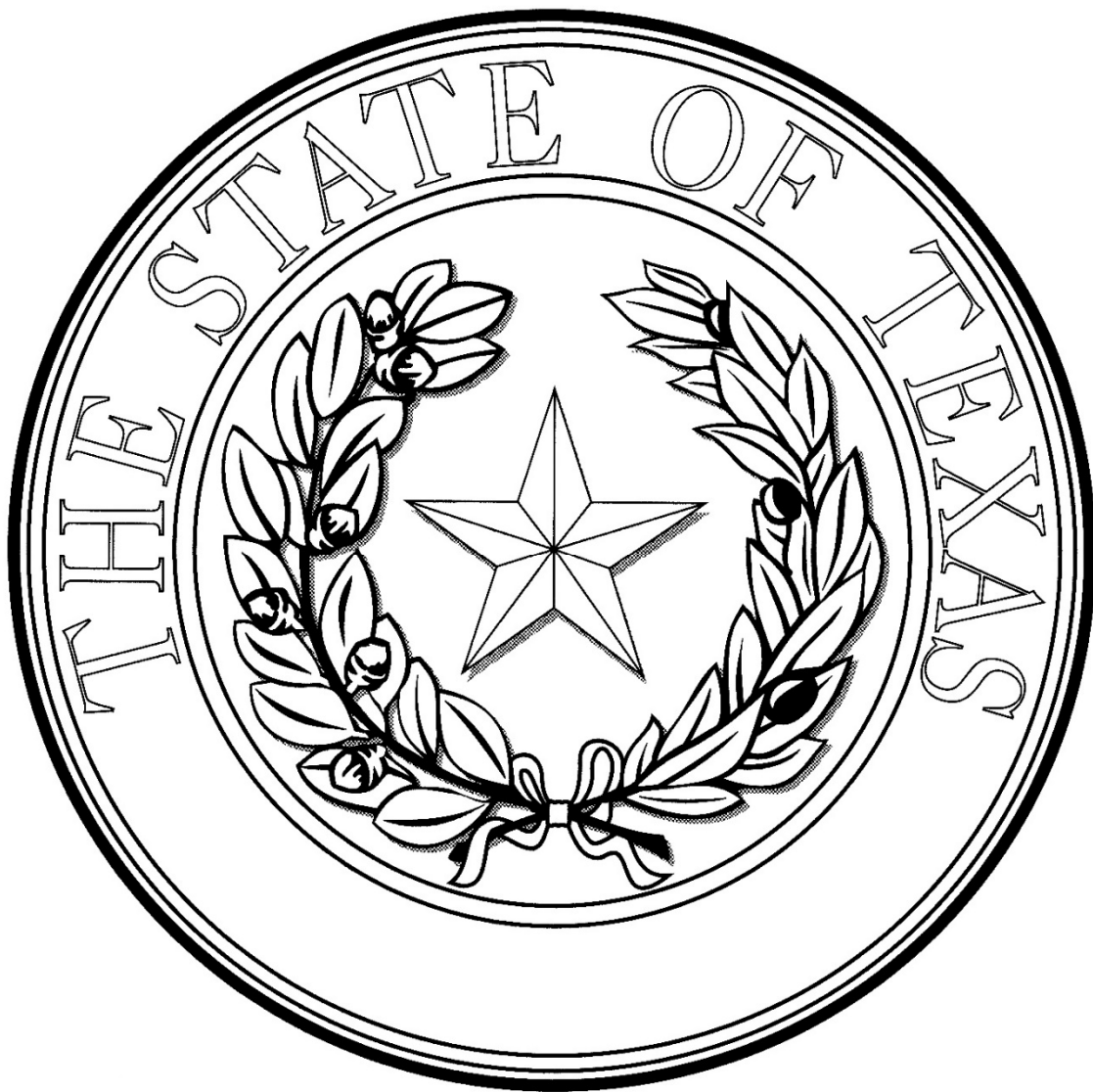
# TEXAS REGISTER

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# TEXAS REGISTER

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# THE GOVERNOR

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

## Appointments

### Appointments for May 19, 2020

Appointed to the Texas Board of Criminal Justice, for a term to expire February 1, 2021, Rodney D. Burrow, M.D. of Pittsburg, Texas (replacing Tommy G. "Tom" Fordyce of Huntsville, who resigned).

### Appointments for May 20, 2020

Appointed to the Correctional Managed Health Care Committee, for a term to expire February 1, 2021, Robert D. "Bobby" Greenberg, M.D. of Belton, Texas (replacing Rodney D. Burrow, MD. of Pittsburg, who resigned).

Designated as presiding officer of the Correctional Managed Health Care Committee, for a term to expire at the pleasure of the Governor, Robert D. "Bobby" Greenberg, M.D. of Belton (Dr. Greenberg is replacing Rodney D. Burrow, M.D. of Pittsburg as presiding officer).

Greg Abbott, Governor

TRD-202001990



## Executive Order GA-23

Relating to the expanded opening of Texas in response to the COVID-19 disaster.

WHEREAS, I, Greg Abbott, Governor of Texas, issued a disaster proclamation on March 13, 2020, certifying under Section 418.014 of the Texas Government Code that the novel coronavirus (COVID-19) poses an imminent threat of disaster for all counties in the State of Texas; and

WHEREAS, I issued proclamations renewing the disaster declaration for all counties in Texas on April 12 and May 12, 2020; and

WHEREAS, the Commissioner of the Texas Department of State Health Services (DSHS), Dr. John Hellerstedt, has determined on March 19, April 17, and May 15, 2020, that COVID-19 represents a public health disaster within the meaning of Chapter 81 of the Texas Health and Safety Code; and

WHEREAS, I have issued executive orders and suspensions of Texas laws in response to COVID-19, aimed at protecting the health and safety of Texans and ensuring an effective response to this disaster; and

WHEREAS, I issued Executive Order GA-08 on March 19, 2020, mandating certain obligations for Texans in accordance with the President's Coronavirus Guidelines for America, as promulgated by President Donald J. Trump and the Centers for Disease Control and Prevention (CDC) on March 16, 2020, which called upon Americans to take actions to slow the spread of COVID-19 for 15 days; and

WHEREAS, I issued Executive Order GA-14 on March 31, 2020, based on the President's announcement that the restrictive Guidelines should extend through April 30, 2020, in light of advice from Dr. Anthony Fauci and Dr. Deborah Birx, and also based on guidance by

DSHS Commissioner Dr. Hellerstedt and Dr. Birx that the spread of COVID-19 can be reduced by minimizing social gatherings; and

WHEREAS, Executive Order GA-14 superseded Executive Order GA-08 and expanded the social-distancing restrictions and other obligations for Texans, aimed at slowing the spread of COVID-19 and protecting public health and safety; and

WHEREAS, after more than two weeks of having in effect the heightened restrictions like those required by Executive Order GA-14, which had saved lives, it was clear that the disease still presented a serious threat across Texas that could persist in certain areas, but also that COVID-19 had wrought havoc on many Texas businesses and workers affected by the restrictions that were necessary to protect human life; and

WHEREAS, on April 17, 2020, I therefore issued Executive Order GA-17, creating the Governor's Strike Force to Open Texas to study and make recommendations on safely and strategically restarting and revitalizing all aspects of the Lone Star State-work, school, entertainment, and culture; and

WHEREAS, also on April 17, 2020, I issued Executive Order GA-16 to generally continue through April 30, 2020, the same social-distancing restrictions and other obligations for Texans according to federal guidelines, but also to offer a safe, strategic first step to Open Texas; and

WHEREAS, I subsequently issued Executive Orders GA-18 and GA-21 on April 27 and May 5, 2020, respectively, to expand the services that are reopened in Texas; and

WHEREAS, as normal business operations resume, everyone must act safely, and to that end Executive Orders GA-18 and GA-21, as well as this executive order, provide that all persons should follow the health protocols recommended by DSHS, which whenever achieved will mean compliance with the minimum standards for safely reopening, but which should not be used to fault those who act in good faith but can only substantially comply with the standards in light of scarce resources and other extenuating COVID-19 circumstances; and

WHEREAS, in coping with the COVID-19 disaster, and especially as services are being reopened in Texas, government officials should look for the least restrictive means of combatting the threat to public health; and

WHEREAS, on May 7, 2020, I issued Executive Order GA-22 to remove confinement in jail as an available penalty for non-compliance with any state or local executive order issued in response to COVID-19; and

WHEREAS, Texas must continue to protect lives while restoring livelihoods, both of which can be achieved with the expert advice of medical professionals and business leaders; and

WHEREAS, the "governor is responsible for meeting ... the dangers to the state and people presented by disasters" under Section 418.011 of the Texas Government Code, and the legislature has given the governor broad authority to fulfill that responsibility; and

WHEREAS, under Section 418.012, the "governor may issue executive orders ... hav[ing] the force and effect of law;" and

WHEREAS, under Section 418.016(a), the "governor may suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business ... if strict compliance with the provisions ... would in any way prevent, hinder, or delay necessary action in coping with a disaster;" and

WHEREAS, under Section 418.017(a), the "governor may use all available resources of state government and of political subdivisions that are reasonably necessary to cope with a disaster;" and

WHEREAS, under Section 418.018(c), the "governor may control ingress and egress to and from a disaster area and the movement of persons and the occupancy of premises in the area;" and

WHEREAS, failure to comply with any executive order issued during the COVID-19 disaster is an offense punishable under Section 418.173 by a fine not to exceed \$1,000, and may be subject to regulatory enforcement;

NOW, THEREFORE, I, Greg Abbott, Governor of Texas, by virtue of the power and authority vested in me by the Constitution and laws of the State of Texas, do hereby order the following on a statewide basis effective immediately, and continuing through June 3, 2020, subject to extension based on the status of COVID-19 in Texas and the recommendations of the Governor's Strike Force to Open Texas, the White House Coronavirus Task Force, and the CDC:

In accordance with guidance from DSHS Commissioner Dr. Hellerstedt, and to achieve the goals established by the President to reduce the spread of COVID-19, every person in Texas shall, except where necessary to provide or obtain Covered Services, minimize social gatherings and minimize in-person contact with people who are not in the same household. People over the age of 65, however, are strongly encouraged to stay at home as much as possible; to maintain appropriate distance from any member of the household who has been out of the residence in the previous 14 days; and, if leaving the home, to implement social distancing and to practice good hygiene, environmental cleanliness, and sanitation.

"Covered Services" shall consist of everything listed by the U.S. Department of Homeland Security's Cybersecurity and Infrastructure Security Agency (CISA) in its Guidance on the Essential Critical Infrastructure Workforce, Version 3.0 or any subsequent version, plus religious services conducted in churches, congregations, and houses of worship. These covered services are not subject to the conditions and limitations, including occupancy or operating limits, set forth below for other covered services.

"Covered Services" shall also consist of the following to the extent they are not already CISA services or religious services, subject to the conditions and limitations set forth below:

1. Retail services that may be provided through pick-up, delivery by mail, or delivery to the customer's doorstep.
2. In-store, non-CISA retail services, for retail establishments that operate at up to 25 percent of the total listed occupancy of the retail establishment.
3. Dine-in restaurant services, for restaurants that operate at up to 25 percent of the total listed occupancy of the restaurant, effective until 12:01 a.m. on Friday, May 22, 2020, when this provision is superseded by the provision set forth below for expanded dine-in restaurant services; provided, however, that
  - a. this applies only to restaurants that have less than 51 percent of their gross receipts from the sale of alcoholic beverages; and

b. any components of the restaurants that have interactive functions or exhibits, including child play areas, interactive games, and video arcades, must remain closed.

4. Movie theaters that operate at up to 25 percent of the total listed occupancy of any individual theater for any screening; provided, however, that components of the movie theaters that have video arcades or interactive games must remain closed.

5. Shopping malls that operate at up to 25 percent of the total listed occupancy of the shopping mall; provided, however, that within shopping malls, the food-court dining areas, play areas, video arcades, and interactive displays and settings must remain closed.

6. Museums and libraries that operate at up to 25 percent of the total listed occupancy; provided, however, that

a. local public museums and local public libraries may so operate only if permitted by the local government; and

b. any components of museums or libraries that have interactive functions or exhibits, including child play areas, must remain closed.

7. Golf course operations.

8. Local government operations, including county and municipal governmental operations relating to licensing (including marriage licenses), permitting, recordation, and document-filing services, as determined by the local government.

9. Wedding venues and the services required to conduct weddings; provided, however, that for weddings held indoors other than at a church, congregation, or house of worship, the facility may operate at up to 25 percent of the total listed occupancy of the facility.

10. Wedding reception services, for facilities that operate at up to 25 percent of the total listed occupancy of the facility.

11. Cosmetology salons, hair salons, barber shops, nail salons/shops, and other establishments where licensed cosmetologists or barbers practice their trade; provided, however, that all such salons, shops, and establishments must ensure at least six feet of social distancing between operating work stations.

12. Tanning salons; provided, however, that all such salons must ensure at least six feet of social distancing between operating work stations.

13. Swimming pools, as determined by each pool owner; provided, however, that

a. indoor swimming pools may operate at up to 25 percent of the total listed occupancy of the pool facility; and

b. outdoor swimming pools may operate at up to 25 percent of normal operating limits as determined by the pool owner.

14. Non-CISA services provided by office workers in offices that operate at up to the greater of (i) ten individuals, or (ii) 25 percent of the total office workforce; provided, however, that the individuals maintain appropriate social distancing.

15. Non-CISA manufacturing services, for facilities that operate at up to 25 percent of the total listed occupancy of the facility.

16. Gyms and exercise facilities and classes that operate at up to 25 percent of the total listed occupancy of the gym or exercise facility; provided, however, that locker rooms and shower facilities must remain closed, but restrooms may open.

17. Starting immediately for all Texas counties except Deaf Smith, El Paso, Moore, Potter, and Randall counties:

a. Massage establishments and other facilities where licensed massage therapists or other persons licensed or otherwise authorized to practice

under Chapter 455 of the Texas Occupations Code practice their trade; provided, however, that all such facilities must ensure at least six feet of social distancing between operating work stations.

b. Personal-care and beauty services that have not already been reopened, such as tattoo studios, piercing studios, hair removal services, and hair loss treatment and growth services; provided, however, that (i) all such facilities must ensure at least six feet of social distancing between operating work stations; and (ii) to the extent such services are licensed or otherwise regulated by Texas law, such services may operate only as permitted by Texas law.

c. Child-care services other than youth camps as described below; provided, however, that to the extent such services are licensed or otherwise regulated by Texas law, such services may operate only as permitted by Texas law.

18. Starting at 12:01 a.m. on Friday, May 22, 2020, for all Texas counties except Deaf Smith, El Paso, Moore, Potter, and Randall counties:

a. Dine-in restaurant services, for restaurants that operate at up to 50 percent of the total listed occupancy of the restaurant; provided, however that (i) this applies only to restaurants that have less than 51 percent of their gross receipts from the sale of alcoholic beverages; and (ii) any components of the restaurants that have interactive functions or exhibits, including child play areas, interactive games, and video arcades, must remain closed.

b. Bars and similar establishments that are not restaurants as defined above, that hold a permit from the Texas Alcoholic Beverage Commission, and that are not otherwise expressly prohibited in this executive order, for such establishments that operate at up to 25 percent of the total listed occupancy of the establishment; provided, however, that any components of the establishments that have interactive functions or exhibits, including child play areas, interactive games, and video arcades, must remain closed.

c. Aquariums, natural caverns, and similar facilities (excluding zoos) that operate at up to 25 percent of the total listed occupancy or, for outdoor areas, at up to 25 percent of the normal operating limits as determined by the facility owner; provided, however, that (i) local public facilities may so operate only if permitted by the local government; and (ii) any components of the facilities that have interactive functions or exhibits, including child play areas, must remain closed.

d. Bowling alleys, bingo halls, simulcast racing to the extent authorized by state law, and skating rinks that operate at up to 25 percent of the total listed occupancy of the establishment; provided, however, that (i) bowling alleys must ensure at least six feet of social distancing between operating lanes; and

(ii) components of the establishments that have video arcades must remain closed.

e. Rodeos and equestrian events that operate at up to 25 percent of the total listed occupancy or, for outdoor areas, at up to 25 percent of the normal operating limits as determined by the facility owner; provided, however, that this authorizes only the rodeo or equestrian event and not larger gatherings, such as county fairs, in which such an event may be held.

f. Drive-in concerts, under guidelines that facilitate appropriate social distancing, that generally require spectators to remain in their vehicles, and that minimize in-person contact between people who are not in the same household or vehicle.

g. Amateur sporting events (i) at which there is no access to the general public allowed; and (ii) for which all participants have tested negative for COVID-19 prior to the event, are quarantined for the duration of

the event, are temperature-checked and monitored for symptoms daily, and are tested again for COVID-19 at the end of the event.

19. Starting at 12:01 a.m. on Friday, May 29, 2020, for Deaf Smith, El Paso, Moore, Potter, and Randall counties:

a. All services that were restored for other Texas counties on Monday, May 18 and Friday, May 22, 2020, in numbers 17 and 18 above.

20. Starting at 12:01 a.m. on Friday, May 29, 2020, for all Texas counties:

a. Outdoor areas of zoos that operate at up to 25 percent of the normal operating limits as determined by the zoo owner; provided, however, that (i) indoor areas of zoos, other than restrooms, must remain closed; (ii) any components of the zoos that have interactive functions or exhibits, including child play areas, must remain closed; and (iii) local public zoos may so operate only if permitted by the local government.

21. Starting at 12:01 a.m. on Sunday, May 31, 2020, for all Texas counties:

a. Professional basketball, baseball, softball, golf, tennis, football, and car racing events, with no spectators physically present on the premises of the venue, as approved on a league-by-league basis by DSHS, in consultation with the Office of the Governor and any recommendations by the advisory Strike Force to Open Texas, based on whether the league has submitted a plan that applies to all events and that meets the minimum health and safety standards; provided, however, that each league must submit, along with a request for approval in the manner prescribed by DSHS, a plan that incorporates applicable minimum standard health protocols recommended by DSHS, as applicable, and such additional measures as are needed to ensure a safe plan for conducting the event.

b. Youth camps, including but not limited to those defined as such under Chapter 141 of the Texas Health and Safety Code, and including all summer camps and other daytime and overnight camps for youths.

c. Youth sports programs; provided, however, that practices may begin, but games and similar competitions may not begin until June 15, 2020.

22. For Texas counties that have filed with DSHS, and are in compliance with, the requisite attestation form promulgated by DSHS regarding five or fewer cases of COVID-19, those services, establishments, and facilities listed above with 25 percent occupancy or operating limits may, as otherwise defined and limited above, operate at up to 50 percent.

23. Such additional services as may be enumerated by future executive orders or proclamations by the governor.

For the Covered Services listed above with limits based on "total listed occupancy," the total listed occupancy limits refer to the maximum occupant load set by local or state law, but for purposes of this executive order, staff members are not included in determining operating levels except for non-CISA manufacturing service providers and non-CISA services provided by office workers. The "total listed occupancy" limits do not apply to outdoor areas, events, facilities, or establishments.

Additionally, valet services are prohibited except for vehicles with placards or plates for disabled parking.

Notwithstanding anything herein to the contrary, the governor may by proclamation identify any county or counties in which Covered Services other than CISA services and religious services are thereafter prohibited, in the governor's sole discretion, based on the governor's determination in consultation with medical professionals that only CISA services and religious services should be permitted in the county, including based on factors such as an increase in the transmission of COVID-19 or in the amount of COVID-19-related hospitalizations or fatalities.

In providing or obtaining Covered Services, all persons (including individuals, businesses and other organizations, and any other legal entity) should use good-faith efforts and available resources to follow the minimum standard health protocols recommended by DSHS, found at [www.dshs.texas.gov/coronavirus](http://www.dshs.texas.gov/coronavirus). All persons should also follow, to the extent not inconsistent with the DSHS minimum standards, the Guidelines from the President and the CDC, as well as other CDC recommendations. Individuals are encouraged to wear appropriate face coverings, but no jurisdiction can impose a civil or criminal penalty for failure to wear a face covering. Nothing in this executive order or the DSHS minimum standards precludes requiring a customer wishing to obtain services to follow additional hygiene measures.

Religious services should be conducted in accordance with the joint guidance issued and updated by the attorney general and governor. Nothing in this executive order, the DSHS minimum standards, or the joint guidance issued and updated by the attorney general and governor precludes churches, congregations, and houses of worship from using school campuses for their religious services or other allowed services.

Except as specifically allowed above, people shall avoid visiting interactive amusement venues such as video arcades, amusement parks, or water parks, unless these enumerated establishments or venues are specifically added as a Covered Service by proclamation or future executive order of the governor. Notwithstanding anything herein to the contrary, the governor may by proclamation add to this list of establishments or venues that people shall avoid visiting. To the extent any of the establishments or venues that people shall avoid visiting also offer Covered Services permitted above, such as restaurant services, these establishments or venues can offer only the Covered Services and may not offer any other services.

This executive order does not prohibit people from accessing Covered Services or engaging in safe daily activities, such as going to the grocery store or gas station; providing or obtaining other Covered Services; visiting swimming pools, parks, beaches, rivers, or lakes; hunting or fishing; attending youth club meetings or events; or engaging in physical activity like jogging, bicycling, or other outdoor sports, so long as the necessary precautions are maintained to reduce the transmission of COVID-19 and to minimize in-person contact with people who are not in the same household.

In accordance with the Guidelines from the President and the CDC, people shall not visit nursing homes, state supported living centers, assisted living facilities, or longterm care facilities unless to provide critical assistance as determined through guidance from the Texas Health and Human Services Commission (HHSC). Nursing homes, state supported living centers, assisted living facilities, and long-term care facilities should follow infection control policies and practices set forth by the HHSC, including minimizing the movement of staff between facilities whenever possible.

In accordance with the Guidelines from the President and the CDC, schools shall remain temporarily closed to in-person classroom attendance by students for the 2019-2020 school year, except for the following:

1. Public education students (accompanied by an adult if needed) may, as allowed by the school consistent with the minimum standard health protocols found in guidance issued by the Texas Education Agency (TEA), visit his or her school campus (a) for limited non-instructional administrative tasks such as cleaning out lockers, collecting personal belongings, and returning school items like band instruments and books; or (b) for graduating seniors, to complete post-secondary requirements that cannot be accomplished absent access to the school facility and its resources, excluding any activity or assessment which can be done virtually.

2. Beginning June 1, 2020, public school districts may offer, and public education students may accordingly visit school campuses for, in-person classroom instructional activities and learning options, such as summer school programs, special education evaluations, specialized assessments, and individualized tutoring, under the minimum standard health protocols found in guidance issued by the TEA.

3. Public education teachers and staff are encouraged to continue to work remotely from home if possible, but may return to schools to conduct remote video instruction, to perform administrative duties, and, beginning June 1, 2020, to provide in-person classroom instructional activities and learning options as permitted and offered by school districts, under the minimum standard health protocols found in guidance issued by the TEA.

4. Private schools and institutions of higher education may reopen campuses and are encouraged to establish similar standards to allow students, teachers, and staff to return to schools for the limited purposes set forth above.

5. Notwithstanding anything herein to the contrary, schools may conduct graduation ceremonies consistent with the minimum standard health protocols found in guidance issued by the TEA.

This executive order, as it pertains to cosmetology salons, hair salons, barber shops, nail salons/shops, and other establishments where licensed cosmetologists or barbers practice their trade, is retroactive to April 2, 2020, to the extent necessary to supersede and nullify the existence of any prior or existing state or local executive order, the violation of which could form the basis for confinement in jail. To the extent any order issued by local officials in response to COVID-19 would allow confinement in jail of a person inconsistent with this executive order or any prior state executive order, that order is superseded retroactive to April 2, 2020.

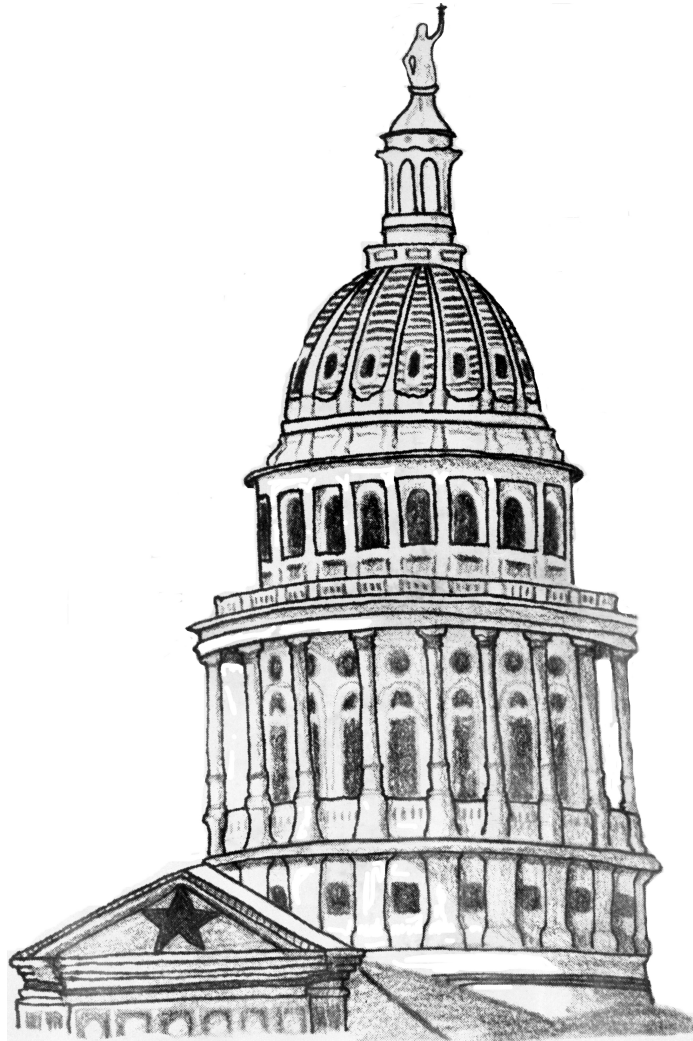
All existing state executive orders relating to COVID-19 are amended to eliminate confinement in jail as an available penalty for any violation of the executive orders. No jurisdiction can confine a person in jail as a penalty for violating any executive order, or any order issued by local officials, in response to the COVID-19 disaster. To the extent any order issued by local officials in response to the COVID-19 disaster would allow confinement in jail, that order is superseded, and I hereby suspend all relevant laws to the extent necessary to ensure that local officials do not confine people in jail for violating any order issued in response to the COVID-19 disaster. This amendment and suspension operates retroactively to April 2, 2020, and supersedes any contrary local or state order.

This executive order shall supersede any conflicting order issued by local officials in response to the COVID-19 disaster, but only to the extent that such a local order restricts Covered Services allowed by this executive order, allows gatherings prohibited by this executive order, or expands the list or scope of Covered Services as set forth in this executive order. I hereby suspend Sections 418.1015(b) and 418.108 of the Texas Government Code, Chapter 81, Subchapter E of the Texas Health and Safety Code, and any other relevant statutes, to the extent necessary to ensure that local officials do not impose restrictions in response to the COVID-19 disaster that are inconsistent with this executive order, provided that local officials may enforce this executive order as well as local restrictions that are consistent with this executive order.

This executive order supersedes Executive Orders GA-21 and GA-22, but does not supersede Executive Orders GA-10, GA-13, GA-17, GA-19, or GA-20. This executive order shall remain in effect and in full force until 11:59 p.m. on June 3, 2020, unless it is modified, amended, rescinded, or superseded by the governor.

Given under my hand this the 18th day of May, 2020.







# THE ATTORNEY GENERAL

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

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

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

## Requests for Opinions

### RQ-0354-KP

#### Requestor:

The Honorable Brian Birdwell

Chair, Senate Committee on Natural Resources and Economic Development

Texas State Senate

Post Office Box 12068

Austin, Texas 78711-2068

Re: Whether a home rule municipality may enter into a contract with a special utility district that prohibits the city from petitioning for de-

certification of all or part of the special utility district's certificate of convenience and necessity in the future (RQ-0354-KP)

#### Briefs requested by June 15, 2020

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

TRD-202001973

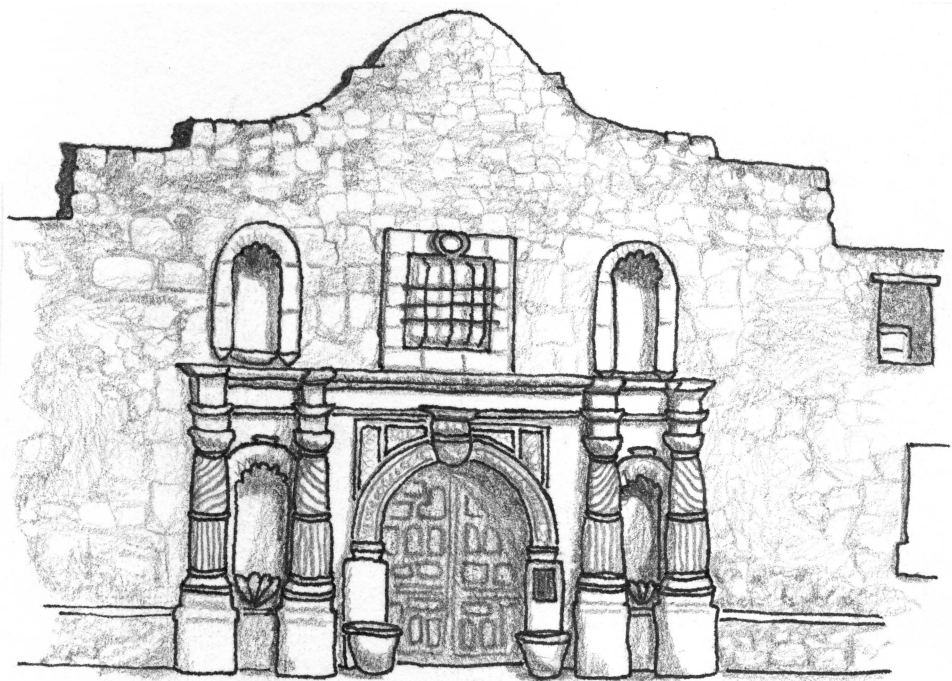
Lesley French

General Counsel

Office of the Attorney General

Filed: May 19, 2020





# EMERGENCY RULES

Emergency Rules include new rules, amendments to existing rules, and the repeals of existing rules. A state agency may adopt an emergency rule without prior notice or hearing if the agency finds that an imminent peril to the public health, safety, or welfare, or a requirement of state or federal law, requires adoption of a rule on fewer than 30 days' notice. An emergency rule may be effective for not longer than 120 days and may be renewed once for not longer than 60 days (Government Code, §2001.034).

## TITLE 16. ECONOMIC REGULATION

### PART 3. TEXAS ALCOHOLIC BEVERAGE COMMISSION

#### CHAPTER 50. ALCOHOLIC BEVERAGE SELLER SERVER TRAINING

#### SUBCHAPTER E. SELLER SERVER CERTIFICATES

##### 16 TAC §50.28

The Texas Alcoholic Beverage Commission (TABC) adopts on an emergency basis an amendment to rule §50.28(c) in response to COVID-19. As authorized by Government Code §2001.034, the Commission may adopt an emergency rule without prior notice or hearing upon finding that an imminent peril to the public health, safety, or welfare requires adoption on fewer than 30 days' notice. Emergency rules adopted under Government Code §2001.034 may be effective for not longer than 120 days and may be renewed for not longer than 60 days.

##### BACKGROUND AND PURPOSE

The purpose of the emergency adoption is to support the Governor's March 13, 2020, proclamation certifying that the COVID-19 virus poses an imminent threat of disaster in the state and declaring a state of disaster for all counties in Texas. In this proclamation, the Governor authorized the use of all available resources of state government and of political subdivisions that are reasonably necessary to cope with this disaster and directed that government entities and businesses would continue providing essential services. The Commission accordingly finds that an imminent peril to the public health, safety, and welfare of the state requires immediate adoption of this Emergency Rule extending the expiration dates for certain seller server certificates.

To support Texans who rely upon seller server certification for their livelihood and the businesses that rely upon those employees to reopen and reinvigorate a large sector of the state's economy, and to thus protect the economic welfare of the state, the Commission is adopting an emergency rule to extend the expiration dates for seller server certificates that would otherwise expire during the period of economic shutdown caused by COVID-19. Seller server certificates with expiration dates from March 13, 2020, through May 13, 2020, shall not expire and shall remain valid for all purposes for 90 days following the date this rule is filed with the Texas Register.

##### STATUTORY AUTHORITY

The emergency rule is adopted under Government Code §2001.034 and Alcoholic Beverage Code §5.31. Government Code §2001.034 authorizes the adoption of emergency rules without prior notice and hearing if an agency finds that an imminent peril to the public health, safety, or welfare requires adoption of a rule on fewer than 30 days' notice. Alcoholic Beverage Code §5.31 authorizes the Alcoholic Beverage Commission to prescribe and publish rules necessary to carry out the provisions of the Code.

##### §50.28. *Verification and Expiration of Certificate.*

(a) The commission can only issue an affidavit verifying that a seller server certificate has been issued to a student if:

(1) the request for verification includes the student's name, date of birth, and a commission-approved personal identification number; or

(2) the request for verification includes the student's name, date of birth, and the certificate number of the certificate that is the subject of the verification request, if a commission-approved personal identification number is not available.

(b) A certificate issued under this chapter will expire on the second anniversary of the date it is issued.

(c) Notwithstanding subsection (b) of this section, a certificate with an expiration date falling between March 13, 2020 and May 13, 2020, inclusive, shall not expire and shall remain valid for all purposes for 90 days following the date this emergency rule is filed with the Texas Register. This provision expires by its own terms after 90 days unless it is extended pursuant to Government Code Section 2001.034(c).

The agency certifies that legal counsel has reviewed the emergency adoption 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 20, 2020.

TRD-202001995

Shana Horton

Rules Attorney

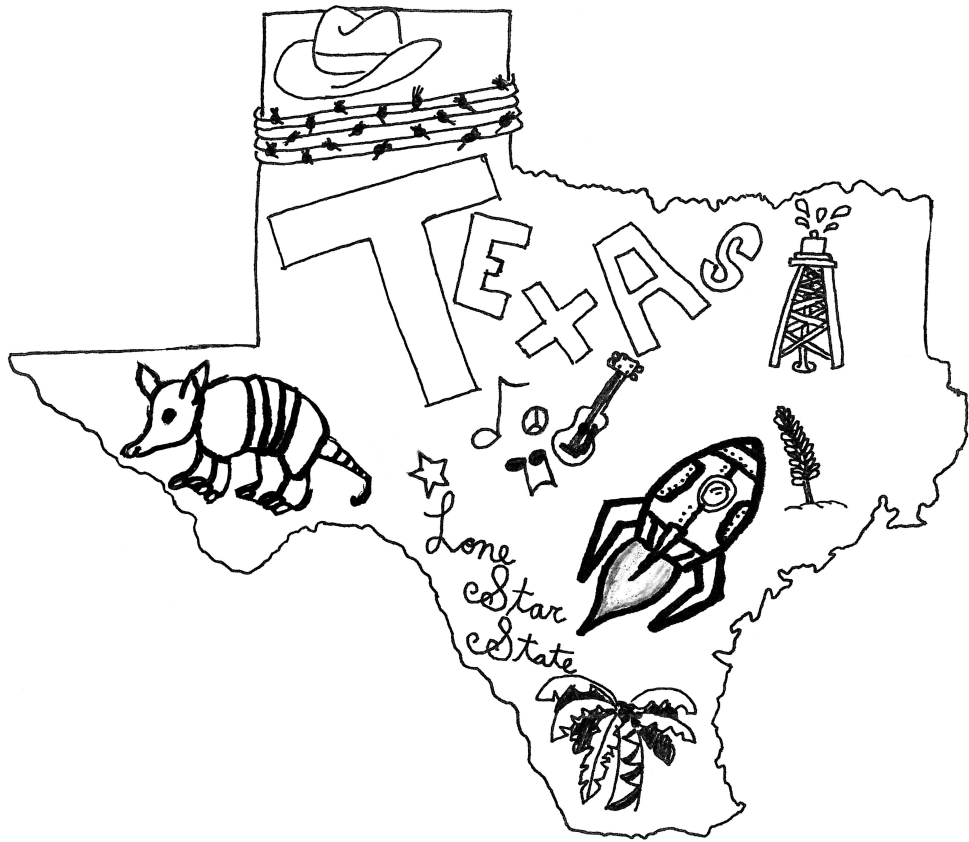
Texas Alcoholic Beverage Commission

Effective date: May 20, 2020

Expiration date: August 17, 2020

For further information, please call: (512) 206-3451

◆ ◆ ◆



# PROPOSED RULES

Proposed rules include new rules, amendments to existing rules, and repeals of existing rules. A state agency shall give at least 30 days' notice of its intention to adopt a rule before it adopts the rule. A state agency shall give all interested persons a reasonable opportunity to

submit data, views, or arguments, orally or in writing (Government Code, Chapter 2001).

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

## TITLE 1. ADMINISTRATION

### PART 10. DEPARTMENT OF INFORMATION RESOURCES

#### CHAPTER 204. INTERAGENCY CONTRACTS FOR INFORMATION RESOURCES TECHNOLOGIES

The Texas Department of Information Resources (department) proposes the repeal of 1 TAC Chapter 204, §§204.1 - 204.3, 204.10 - 204.12, 204.30 - 204.32, concerning Interagency Contracts for Information Resources Technologies. The new rules will more accurately reflect legislative actions. The repeal is necessary as the result of passage of Senate Bill 64, effective on September 01, 2019. The legislation repealed Texas Government Code §2054.119, which provided DIR's rulemaking authority for the rules governing interagency contracts promulgated by Chapter 204. The department published a formal notice of rule review in the May 18, 2018, issue of the *Texas Register* (43 TexReg 3249).

The changes to the chapter apply to state agencies and institutions of higher education. The assessment of the impact of the adopted changes on institutions of higher education was prepared in consultation with the Information Technology Council for Higher Education (ITCHE) in compliance with Texas Government Code §2054.121(c). ITCHE determined that there was no fiscal impact upon institutions of higher education as a result of the proposed repeal.

Hershel Becker, the department's Chief Procurement Officer, has determined that for each year of the first five years following the repeal of Chapter 204, there will be no fiscal impact on state agencies, institutions of higher education, and local governments resulting from compliance with such changes to the rule. The elimination of unnecessary and duplicative rules reduces bureaucracy and the risk of inconsistencies in duplicative laws and increases flexibility in the conduct of business for the department and its constituency.

There is no impact on local government as a result of enforcing or administering the amended rule as proposed as they are not subject to the limits enacted by the Legislature. There is no economic impact on rural communities as a result of enforcing or administering the amended rule as proposed.

There is no economic impact on small businesses and microbusinesses.

Pursuant to Texas Government Code §2001.0221, the agency provides the following Governmental Growth Impact Statement

for the proposed amendment. The agency has determined the following:

1. The proposed repeal does not create or eliminate a government program.
2. Implementation of the proposed rule does not require the creation or elimination of employee positions.
3. Implementation of the proposed repeal does not require an increase or decrease in future legislative appropriations to the agency.
4. The proposed repeal does not require an increase or decrease in fees paid to the agency.
5. The proposed repeal does not create a new regulation.
6. The proposal repeals existing rules at the directive of the legislature pursuant to Senate Bill 64.
7. The proposal decreases the number of individuals subject to the rule's applicability as the proposed repeal will nullify the applicability of this rule.
8. The proposal has a potential positive effect upon the state's economy as it no longer requires regular updates to 1 Texas Administrative Code Chapter 204 to maintain compliance with legislative changes regarding entering interagency contracts.

Written comments on the proposed repeal may be submitted to Christi Koenig Brisky, Assistant General Counsel, 300 West 15th Street, Suite 1300, Austin, Texas 78701, or to [rule.review@dir.texas.gov](mailto:rule.review@dir.texas.gov). Comments will be accepted for 30 days after publication in the *Texas Register*.

#### SUBCHAPTER A. DEFINITIONS

##### 1 TAC §§204.1 - 204.3

The repeal is proposed under Texas Government Code §2054.052(a), which authorizes the department to adopt rules as necessary to implement its responsibilities under Texas Government Code Chapter 2054, in addition to Senate Bill 64, which rescinds the department's specific rulemaking authority granted by repealed Texas Government Code §2054.119.

No other statute, article, or code is affected by this proposal.

§204.1. *Key Terms and Technologies for Contracts for Information Resources Technologies.*

§204.2. *Institution of Higher Education.*

§204.3. *State Agency.*

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 11, 2020.

TRD-202001866  
Katherine Rozier Fite  
Interim General Counsel  
Department of Information Resources  
Earliest possible date of adoption: June 28, 2020  
For further information, please call: (512) 475-4552



## SUBCHAPTER B. STATE AGENCY INTERAGENCY CONTRACTS

### 1 TAC §§204.10 - 204.12

The repeal is proposed under Texas Government Code §2054.052(a), which authorizes the department to adopt rules as necessary to implement its responsibilities under Texas Government Code Chapter 2054, in addition to Senate Bill 64, which rescinds the department's specific rulemaking authority granted by repealed Texas Government Code §2054.119.

No other statute, article, or code is affected by this proposal.

§204.10. *Public Solicitation Required.*

§204.11. *Exceptions to Public Solicitation Requirement.*

§204.12. *Waivers.*

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 11, 2020.

TRD-202001938  
Katherine Rozier Fite  
Interim General Counsel  
Department of Information Resources  
Earliest possible date of adoption: June 28, 2020  
For further information, please call: (512) 475-4552



## SUBCHAPTER C. INSTITUTION OF HIGHER EDUCATION INTERAGENCY CONTRACTS

### 1 TAC §§204.30 - 204.32

The repeal is proposed under Texas Government Code §2054.052(a), which authorizes the department to adopt rules as necessary to implement its responsibilities under Texas Government Code Chapter 2054, in addition to Senate Bill 64, which rescinds the department's specific rulemaking authority granted by repealed Texas Government Code §2054.119.

No other statute, article, or code is affected by this proposal.

§204.30. *Public Solicitation Required.*

§204.31. *Exceptions to Public Solicitation Requirement.*

§204.32. *Waivers.*

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

Filed with the Office of the Secretary of State on May 11, 2020.

TRD-202001940  
Katherine Rozier Fite  
Interim General Counsel  
Department of Information Resource  
Earliest possible date of adoption: June 28, 2020  
For further information, please call: (512) 475-4552



## CHAPTER 216. PROJECT MANAGEMENT PRACTICES

### SUBCHAPTER B. PROJECT MANAGEMENT PRACTICES FOR STATE AGENCIES

#### 1 TAC §216.11

The Texas Department of Information Resources (department) proposes amendments to 1 TAC Chapter 216, §216.11, to ensure the rules accurately reflect current law. The amendment is necessary as the result of passage of Senate Bill 65 (86(R) Legislative Session), effective as of September 01, 2019. Senate Bill 65 amended Texas Government Code Chapter 2261 to include Texas Government Code §2261.258, which requires that DIR, in consultation with the quality assurance team, by rule develop guidelines for the additional or reduced monitoring of a state agency assigned a monitoring rating by the State Auditor's Office in accordance with the monitoring assessment authorized by Texas Government Code §2261.258(a). These rules apply to contracts that fall under the monetary thresholds for review or monitoring by the quality assurance team. Texas Government Code §2261.258(e).

The proposed amendment to §216.11 would implement the additional and reduced monitoring guidelines necessary to comply with Texas Government Code §2261.258(e).

The proposed amendment applies to state agencies. The proposed amendment does not apply to institutions of higher education.

Tom Niland, the Program Director for the Statewide Project Delivery Framework, has determined that for the first five-year period the amended rule is in effect, there will be no fiscal impact on state agencies or institutions of higher education. There is no impact on local government as a result of enforcing or administering the amended rule as proposed.

There is no economic impact on rural communities, small businesses or microbusinesses as a result of enforcing or administering the amended rule as proposed.

DIR submitted the proposed amendments to the Information Technology Council of Higher Education for their review and impact assessment. ITCHE had no comments and determined that there was no impact on institutions of higher education.

Pursuant to Texas Government Code §2001.0221, the agency provides the following Governmental Growth Impact Statement for the proposed amendment. The agency has determined the following:

1. The proposed rule does not create or eliminate a government program.
2. Implementation of the proposed rule does not require the creation or elimination of employee positions.

3. Implementation of the proposed rule does not require an increase or decrease in future legislative appropriations to the agency.
4. The proposed rule does not require an increase or decrease in fees paid to the agency.
5. The proposed rule creates a new subsection of the rules at the directive of the legislature pursuant to Senate Bill 65 (86th Legislature (R)).
6. The proposed rule expands existing rules at the directive of the legislature pursuant to Senate Bill 65 (86th Legislature (R)); the proposed rule neither limits nor repeals an existing regulation.
7. The proposed rule does not increase or decrease the number of individuals subject to the overall rule's applicability (although the State Auditor's Office determines which state agencies are subject to the monitoring identified by the proposed amendment; only certain state agencies may be identified by the State Auditor's Office as being subject to the proposed subsection of the rule).
8. The proposed rule does not positively or adversely affect the state's economy, although it may result in additional rigor and transparency in state agencies' contracting process stance.

Written comments on the proposed amendment may be submitted to Christi Koenig Brisky, Assistant General Counsel, 300 West 15th Street, Suite 1300, Austin, Texas 78701, or to [rule.review@dir.texas.gov](mailto:rule.review@dir.texas.gov). Comments will be accepted for 30 days after publication in the *Texas Register*.

The amendment is proposed pursuant to Texas Government Code §2261.258(e), mandating the department create guidelines by rule for additional or reduced monitoring of state agencies, and Texas Government Code §2054.052(a), which authorizes the department to adopt rules as necessary to implement its responsibilities under Texas Government Code, Chapter 2054.

No other code, article, or statute is affected by this proposal.

#### §216.11. *Requirements.*

(a) Each state agency shall manage information resources projects based on project management practices that meet the following criteria:

- (1) Include a standardized and repeatable method for delivery of information resources projects that solve business problems;
- (2) Include a method for governing application of project management practices;
- (3) Be documented and include a single reference source (e.g., handbook, guide, repository);
- (4) Include a project classification method developed by DIR the agency, or another source that:
  - (A) Differentiates and categorizes projects according to level of complexity and risk (e.g., technology, size, budget, time to deliver); and
  - (B) Defines how to use the project classification method to establish, scale, and execute the appropriate level of processes;
- (5) Include a method to periodically review, assess, monitor, measure, and improve the impact of organizational project management practices on the agency's ability to achieve its strategic objectives and deliver business value;

(6) Align with use of the Texas Project Delivery Framework for major information resources projects;

(7) Accommodate use of other practices and methods that align with application of project management practices; and

(8) Be reviewed and updated at least every two years to facilitate continuous process improvement.

(b) For major information resources projects:

(1) The quality assurance team shall monitor and report on performance indicators for each state agency project, including schedule, cost, scope, and quality for the entire project life cycle.

(2) The department shall develop the performance indicators required to monitor under paragraph (1) of this subsection in consideration of applicable information technology industry standards.

(3) Each state agency engaged in a major information resources project will regularly report, according to quality assurance team directed frequency, the performance indicator metrics defined in paragraph (2) of this subsection for each major information resources project.

(4) If a state agency major information resources project is determined not likely to achieve the performance objectives for the project, the quality assurance team shall place the project on a list for more intense monitoring by the quality assurance team.

(5) The quality assurance team shall closely monitor monthly reports for each major information resources project identified under paragraph (3) of this subsection and, based on the performance indicator metrics developed by the department, determine whether to recommend to the department the need to initiate corrective action for the project.

(6) The department shall create and maintain on the department's website a user-friendly data visualization tool that provides an analysis and visual representation of the performance indicators developed under paragraph (2) of this subsection for each state agency major information resources project.

(7) If, under the annual State Auditor's Office contract monitoring assessment required by Texas Government Code §2261.258, a state agency is assigned a status of additional monitoring or reduced monitoring, then the state agency shall follow the applicable guidelines described below. The State Auditor's Office determines the contract period during which additional or reduced monitoring will occur.

(A) When additional monitoring is warranted:

(i) During any contract solicitation development period for the project, the agency shall complete and submit to the quality assurance team the Framework's Acquisition Plan for Additional Monitoring. The agency shall submit Monitoring Report data into the Statewide Project Automated Reporting system on a monthly basis. The agency shall be required to meet with the quality assurance team to report on project status as required by the quality assurance team.

(ii) During the contract formation and award period, the agency shall submit Monitoring Report data into the Statewide Project Automated Reporting system on a monthly basis. The agency shall be required to meet with the quality assurance team to report on contract negotiation status as required by the quality assurance team.

(iii) During the contract management and termination period, the agency shall submit Monitoring Report data into the Statewide Project Automated Reporting system on a monthly basis and shall be required to submit a Contract Closeout Report at contract ter-

mination. The agency shall be required to meet with the quality assurance team to report on project progress as required by the quality assurance team.

(B) When reduced monitoring is warranted:

(i) During any contract solicitation development period for the project, the agency may submit to the quality assurance team any acquisition plan that is consistent with the Texas Procurement and Contract Management Guide for contracts valued at \$10 million or more rather than the Framework Acquisition Plan established by DIR. The agency shall submit Monitoring Report data into the Statewide Project Automated Reporting system on a quarterly basis unless otherwise noted by the quality assurance team.

(ii) During the contract formation and award period, the agency shall submit Monitoring Report data into the Statewide Project Automated Reporting system on a quarterly basis unless otherwise noted by the quality assurance team.

(iii) During the contract management and termination period, agency shall submit Monitoring Report data into the Statewide Project Automated Reporting system on a quarterly basis unless otherwise noted by the quality assurance team.

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 11, 2020.

TRD-202001869

Katherine Rozier Fite

Interim General Counsel

Department of Information Resources

Earliest possible date of adoption: June 28, 2020

For further information, please call: (512) 475-4552



## TITLE 19. EDUCATION

### PART 2. TEXAS EDUCATION AGENCY

#### CHAPTER 103. HEALTH AND SAFETY

##### SUBCHAPTER CC. COMMISSIONER'S RULES CONCERNING SAFE SCHOOLS

###### 19 TAC §103.1209

The Texas Education Agency (TEA) proposes new §103.1209, concerning mandatory school drills. The proposed new rule would implement Senate Bill (SB) 11, 86th Legislative Session, 2019, which mandated the adoption of procedures for evacuating school property and designation of the number and type of school drills.

BACKGROUND INFORMATION AND JUSTIFICATION: Texas Education Code (TEC), Chapter 37, Subchapter D, addresses the protection of school buildings and grounds. To this subchapter, SB 11, 86th Texas Legislature, 2019, added TEC, §37.114, which mandates emergency evacuations and school drills. Proposed new 19 TAC §103.1209 would implement the new statute by establishing requirements and definitions and by designating the frequency of mandatory school drills.

Proposed new subsection (a) would require districts and open-enrollment charter schools to conduct emergency safety drills.

This requirement would help districts and open-enrollment charter schools practice critical drills to keep students, staff, and visitors safe during an actual emergency.

Proposed new subsection (b) would define the drills that districts and open-enrollment charter schools are required to conduct every school year. Due to nuanced differences between the drills, it is important to define the different types of drills and the situations that trigger the drills.

Proposed new subsection (c) would identify the frequency with which each drill must be conducted during the academic school year, not to exceed eight drills. This would provide districts and open-enrollment charters with the guidance needed on the number of drills to be conducted in one school year.

FISCAL IMPACT: Megan Aghazadian, deputy commissioner for operations, has determined that for the first five-year period the proposal is in effect there are no additional costs to state or local government, including school districts and open-enrollment charter schools, required to comply with the proposal.

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

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

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

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

GOVERNMENT GROWTH IMPACT: TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would create a new regulation and increase the number of individuals subject to its applicability by implementing the statutory requirements regarding mandatory school drills.

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

PUBLIC BENEFIT AND COST TO PERSONS: Ms. Aghazadian has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposal would be ensuring that districts and open-enrollment charter schools practice critical drills to keep students, staff, and visitors safe during an actual emergency. There is no anticipated economic cost to persons who are required to comply with the proposal.

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



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

**PUBLIC COMMENTS:** The public comment period on the proposal begins May 29, 2020, and ends July 13, 2020. A request for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 14 calendar days after notice of the proposal has been published in the *Texas Register* on May 29, 2020. A form for submitting public comments is available on the TEA website at [https://tea.texas.gov/About\\_TEA/Laws\\_and\\_Rules/Commissioner\\_Rules\\_\(TAC\)/Proposed\\_Commissioner\\_of\\_Education\\_Rules/](https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_(TAC)/Proposed_Commissioner_of_Education_Rules/). Comments on the proposal may also be submitted to Cristina De La Fuente-Valadez, Rulemaking, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701.

**STATUTORY AUTHORITY.** The new section is proposed under Texas Education Code, §37.114, as added by Senate Bill 11, 86th Texas Legislature, 2019, which requires the commissioner to adopt rules regarding emergency evacuations and drills, in consultation with the state fire marshal and Texas School Safety Center.

**CROSS REFERENCE TO STATUTE.** The new section implements Texas Education Code, §37.114, as added by Senate Bill 11, 86th Texas Legislature, 2019.

*§103.1209. Mandatory School Drills.*

(a) Requirement. Each school district and open-enrollment charter school shall conduct emergency safety drills in accordance with Texas Education Code, §37.114.

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

(1) Drill--A set of procedures that test a single, specific operation or function. Drill examples include evacuating for a fire or locking down from an internal threat.

(2) Secure (Lockout)--A response action that a school takes to secure school buildings and grounds during incidents that pose a threat or hazard outside of the school building. Secure (Lockout) uses the security of the physical facility to act as protection.

(3) Lockdown--A response action that a school takes to secure school buildings and grounds during incidents that pose an immediate threat of violence inside the school. The primary objective is to quickly ensure all school students, staff, and visitors are secured away from immediate danger.

(4) Evacuate--A response action that a school takes to quickly move students and staff from one place to another. The primary objective of an evacuation is to ensure that all staff, students, and visitors can quickly move away from the threat. Evacuation examples include a bomb threat or internal gas leak.

(5) Shelter-in-place for hazmat--A response action that a school takes to quickly move students, staff, and visitors indoors, perhaps for an extended period of time, because it is safer inside the building than outside. Affected individuals may be required to move to rooms without windows or to rooms that can be sealed. Shelter-in-place for hazmat examples include train derailment with chemical release or smoke from a nearby fire.

(6) Shelter for severe weather--A response action that a school takes to quickly move students, staff, and visitors indoors, per-

haps for an extended period of time, because it is safer inside the building than outside. For severe weather, depending on the type and/or threat level (watch versus warning), affected individuals may be required to move to rooms without windows on the lowest floor possible or to a weather shelter.

(7) Hold--A response action that a school takes when hallways need to be cleared. Subsequent bells and any/all scheduled class changes are disregarded. Movement throughout building is stopped until an all-clear signal is given.

(8) Fire evacuation drill--A method of practicing how a building would be vacated in the event of a fire. The purpose of fire drills in buildings is to ensure that everyone knows how to exit safely as quickly as possible.

(c) Frequency. School emergency and safety drills shall be conducted each semester of the school year, not to exceed eight drills for the entire school year. Following is the recommended frequency of drills by type.

- (1) Secure (Lockout)--One per school year.
- (2) Lockdown--Two per school year or once per semester.
- (3) Evacuate--One per school year.
- (4) Shelter-in-place for hazmat--One per school year.
- (5) Shelter for severe weather--One per school year.
- (6) Hold--One per school year.
- (7) Fire evacuation drill--One per school year.

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

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Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

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## PART 7. STATE BOARD FOR EDUCATOR CERTIFICATION

### CHAPTER 227. PROVISIONS FOR EDUCATOR PREPARATION CANDIDATES

#### SUBCHAPTER A. ADMISSION TO EDUCATOR PREPARATION PROGRAMS

##### 19 TAC §227.10, §227.15

The State Board for Educator Certification (SBEC) proposes amendments to §227.10 and §227.15, concerning admission to educator preparation programs (EPPs). The proposed amendments would update the subject-matter-only assessments to be used for the Pre-Admission Content Test (PACT).

**BACKGROUND INFORMATION AND JUSTIFICATION:** The SBEC rules in 19 Texas Administrative Code (TAC) Chapter 227 are organized as follows: Subchapter A, Admission to Educator Preparation Programs, and Subchapter B, Preliminary

Evaluation of Certification Eligibility. These subchapters provide for rules that establish requirements for admission to an EPP and preliminary evaluation of certification eligibility.

The following is a description of the proposed amendments to 19 TAC Chapter 227, Subchapter A.

#### *§227.10. Admission Criteria.*

The proposed amendment in Figure §227.10(a)(4)(C) would update the appropriate subject-matter content certification examinations for purposes of admission into an EPP. The additional certification areas that would be reflected in the figure are §233.2, Early Childhood: Prekindergarten-Grade 3; §233.2, Core Subjects with Science of Teaching Reading: Early Childhood-Grade 6; §233.2, Core Subjects with Science of Teaching Reading: Grades 4-8; §233.3, English Language Arts and Reading with Science of Teaching Reading: Grades 4-8; and §233.3, English Language Arts and Reading/Social Studies with Science of Teaching Reading: Grades 4-8.

The proposed amendment in §227.10(a)(4)(C) would also strike the phrase, "for the calendar year during which the applicant seeks admission," to remove the restriction that PACT tests only be allowed for the calendar year in which a candidate seeks admission. This change would reduce the burden for candidates having to take the same test to determine subject-matter content knowledge, due to the timeline restriction that should be determined by the admission criteria of an EPP. The proposed amendment would also strike the outdated provision related to the January 27, 2020 implementation date for the content certification examination passage for admission into an EPP.

The proposed amendment in §227.10(a)(5) would update the cross reference to 19 TAC Chapter 241 to reflect the title change.

The proposed amendment in §227.10(b) would add the word, "admission," to clarify that the additional requirements that EPPs may adopt are for admission requirements, which align with the provisions of this chapter.

The proposed amendment to §227.10(c)(2) would add the word, "intern," to clarify that the requirements for admission related to a probationary certificate also include the intern certificate.

#### *§227.15. Contingency Admission.*

The proposed amendment to §227.15(d) would add the word, "intern," to clarify that the requirements for recommendation of a probationary certificate also are applicable to an intern certificate.

**FISCAL IMPACT:** Ryan Franklin, associate commissioner for educator leadership and quality, has determined that there is an anticipated fiscal impact on state government (TEA) required to comply with the proposal. The TEA estimates a cost of \$1,782 for each of the next five fiscal years (FYs) from FYs 2021-2025 in the loss of \$11 for each exam at an average of 162 exams a year for candidates not being required to take a pre-admission exam twice for entrance into a program. Based on 2014-2019 testing data, it is estimated that 162 candidates will not be required to take additional exams with the time provision eliminated per academic year starting in FY 2021. There is no additional fiscal impact on local governments or entities required to comply with the proposal.

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

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

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

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

**GOVERNMENT GROWTH IMPACT:** The TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would decrease fees paid to the agency, limit an existing regulation, and decrease the number of individuals subject to the rule by removing the regulation requiring that candidates who take and pass a pre-admission content test must re-take the same test if they are not admitted to a program within a year. There is an average of 162 candidates that fall into this category every year; therefore, the number of candidates subject to the rule will be reduced along with the \$11 that TEA receives for each test administered.

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

**PUBLIC BENEFIT AND COST TO PERSONS:** The public benefit anticipated as a result of the proposal would be clarified admission requirements for candidates entering EPPs. There is no anticipated cost to persons who are required to comply with the proposal. The TEA anticipates a cost savings for persons of \$17,172 for each of the next five FYs from FYs 2021-2025. The cost savings reflects \$106 for each exam at an average of 162 exams a year for candidates not being required to take a pre-admission exam twice for entrance into an EPP. Based on 2014-2019 testing data, it is estimated that 162 candidates will not be required to take additional exams with the time provision eliminated per academic year starting in FY 2021.

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

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

**PUBLIC COMMENTS:** The public comment period on the proposal begins May 29, 2020 and ends June 29, 2020. A form for submitting public comments is available on the TEA website at [https://tea.texas.gov/About\\_TEA/Laws\\_and\\_Rules/SBEC\\_Rules\\_\(TAC\)/Proposed\\_State\\_Board\\_for\\_Educator\\_Certification\\_Rules/](https://tea.texas.gov/About_TEA/Laws_and_Rules/SBEC_Rules_(TAC)/Proposed_State_Board_for_Educator_Certification_Rules/). The SBEC will take registered oral and written comments on the proposal at the July 24, 2020 meeting in accordance with the SBEC board operating policies and procedures. All requests for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the Department of Educator Leadership

and Quality, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701, Attention: Mr. Ryan Franklin, associate commissioner for educator leadership and quality, not more than 14 calendar days after notice of the proposal has been published in the *Texas Register* on May 29, 2020.

**STATUTORY AUTHORITY.** The amendments are proposed under Texas Education Code (TEC), §21.031, which authorizes the State Board for Educator Certification (SBEC) to regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators, and states that in proposing rules under the TEC, Chapter 21, Subchapter B, the SBEC shall ensure that all candidates for certification or renewal of certification demonstrate the knowledge and skills necessary to improve the performance of the diverse student population of this state; TEC, §21.041(b)(1), (4), and (6), which require the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; specify the requirements for the issuance and renewal of an educator certificate; and provide for special or restricted certification of educators, including certification of instructors of American Sign Language; TEC, §21.044(a), which requires the SBEC to propose rules establishing training requirements a person must accomplish to obtain a certificate, enter an internship, or enter an induction-year program; TEC, §21.044(g)(2) and (3), which require each educator preparation program (EPP) to provide certain information related to the effect of supply and demand forces on the educator workforce of the state and the performance over time of the EPP; TEC, §21.0441, which requires the SBEC to adopt rules setting certain admission requirements for EPPs, including allowing content certification examinations to substitute for required college classroom credit hours in the subject in which the candidate is seeking initial certification; TEC, §21.0489(c), as added by Senate Bill 1839 and House Bill (HB) 2039, 85th Texas Legislature, Regular Session, 2017, which requires the SBEC to adopt requirements that would establish an Early Childhood: Prekindergarten-Grade 3 certificate; TEC, §21.049(a), which authorizes the SBEC to propose rules providing for educator certification programs as an alternative to traditional EPPs; TEC, §21.050(a), which requires a person who applies for a teaching certificate for which SBEC rules require a bachelor's degree to possess a bachelor's degree received with an academic major or interdisciplinary academic major, including reading, other than education, that is related to the curriculum as prescribed under the TEC, Chapter 28, Subchapter A; TEC, §22.083, which requires a school district, open-enrollment charter school, or shared services arrangement to obtain criminal history record information that relates to a person who is not subject to a national criminal history record information review under this subchapter and who is an employee of the district or school; or a shared services arrangement, if the employee's duties are performed on school property or at another location where students are regularly present; TEC, §22.0835, which requires a school district, open-enrollment charter school, or shared services arrangement to obtain from the department and may obtain from any other law enforcement or criminal justice agency or a private entity that is a consumer reporting agency governed by the Fair Credit Reporting Act (15 U.S.C. Section 1681 et seq.), all criminal history record information that relates to a person participating in an internship consisting of student teaching to receive a teaching certificate; or a volunteer or person who has indicated, in writing, an intention to serve as a volunteer with the district, school, or shared services arrangement; Texas Occupations Code (TOC),

§53.151, as added by HB 1508, 85th Texas Legislature, Regular Session, 2017, which sets the definitions of "licensing authority" and "occupational license" to have the meanings assigned to those terms by the TOC, §58.001; TOC, §53.152, as added by HB 1508, 85th Texas Legislature, Regular Session, 2017, which requires EPPs to provide applicants and enrollees certain notice regarding potential ineligibility for a certificate based on convicted offenses; the SBEC rules regarding the certificate eligibility of an individual with a criminal history; and the right of the individual to request a criminal history evaluation letter; TOC, §53.153, as added by HB 1508, 85th Texas Legislature, Regular Session, 2017, which requires an EPP to refund tuition, application fees, and examination fees paid by an individual if the EPP failed to provide the required notice under the TOC, §53.152, to an individual who was denied a certificate because the individual was convicted of an offense.

**CROSS REFERENCE TO STATUTE.** The amendments implement Texas Education Code (TEC), §§21.031; 21.041(b)(1), (4), and (6); 21.044(a), (g)(2), and (g)(3); 21.0441; 21.0489(c), as added by Senate Bill 1839 and House Bill (HB) 2039, 85th Texas Legislature, Regular Session, 2017; 21.049(a); 21.050(a); 22.083; and 22.0835; and Texas Occupations Code, §§53.151-53.153, as added by HB 1508, 85th Texas Legislature, Regular Session, 2017.

*§227.10. Admission Criteria.*

(a) The educator preparation program (EPP) delivering educator preparation shall require the following minimum criteria of all applicants seeking initial certification in any class of certificate, unless specified otherwise, prior to admission to the program.

(1) For an undergraduate university program, an applicant shall be enrolled in an accredited institution of higher education (IHE).

(2) For an alternative certification program or post-baccalaureate program, an applicant shall have, at a minimum, a bachelor's degree earned from and conferred by an accredited IHE.

(3) For an undergraduate university program, alternative certification program, or post-baccalaureate program, to be eligible for admission into an EPP, an applicant shall have a grade point average (GPA) of at least 2.5 before admission.

(A) The GPA shall be calculated from an official transcript as follows:

(i) 2.5 on all coursework previously attempted by the person at an accredited IHE:

(I) at which the applicant is currently enrolled (undergraduate university program formal admission, alternative certification program contingency admission, or post-baccalaureate program contingency admission); or

(II) from which the most recent bachelor's degree or higher from an accredited IHE was conferred (alternative certification program formal admission or post-baccalaureate program formal admission); or

(ii) 2.5 in the last 60 semester credit hours on all coursework previously attempted by the person at an accredited IHE:

(I) at which the applicant is currently enrolled (undergraduate university program formal admission, alternative certification program contingency admission, or post-baccalaureate program contingency admission). If an applicant has less than 60 semester credit hours on the official transcript from the accredited IHE at which the applicant is currently enrolled, the EPP shall use grades from all coursework previously attempted by a person at the most recent ac-

credited institution(s) of higher education, starting with the most recent coursework from the official transcript(s), to calculate a GPA for the last 60 semester credit hours; or

(II) from which the most recent bachelor's degree or higher from an accredited IHE was conferred. If an applicant has hours beyond the most recent degree, an EPP may use grades from the most recent 60 hours of coursework from an accredited IHE (alternative certification program formal admission or post-baccalaureate program formal admission).

(B) In accordance with the Texas Education Code, (TEC), §21.0441(b), an exception to the minimum GPA requirement may be granted by the program director only in extraordinary circumstances and may not be used by a program to admit more than 10% of any incoming class of candidates. An applicant is eligible for this exception if:

(i) documentation and certification from the program director that an applicant's work, business, or career experience demonstrates achievement equivalent to the academic achievement represented by the GPA requirement; and

(ii) in accordance with the TEC, §21.0441(a)(2)(B), an applicant must pass an appropriate content certification examination as specified in paragraph (4)(C) of this subsection for each subject in which the applicant seeks certification prior to admission. In accordance with the TEC, §21.0441(b), applicants who do not meet the minimum GPA requirement and have previously been admitted into an EPP may request permission to register for an appropriate content certification examination if the applicant is not seeking admission to the same EPP that previously granted test approval for a certification examination in the same certification class.

(C) An applicant who is seeking a career and technical education (CTE) certificate that does not require a degree from an accredited IHE is exempt from the minimum GPA requirement.

(D) An applicant who does not meet the minimum GPA requirement and is seeking certification in a class other than classroom teacher must perform at or above a score equivalent to a 2.5 GPA on the Verbal Reasoning, Quantitative Reasoning, and Analytic Writing sections of the GRE® (Graduate Record Examinations) revised General Test. The State Board for Educator Certification will use equivalency scores established by the Educational Testing Service, and the Texas Education Agency (TEA) will publish those equivalency scores annually on the TEA website.

(4) For an applicant who will be seeking an initial certificate in the classroom teacher class of certificate, the applicant shall have successfully completed, prior to admission, at least:

(A) a minimum of 12 semester credit hours in the subject-specific content area for the certification sought, unless certification sought is for mathematics or science at or above Grade 7; or

(B) 15 semester credit hours in the subject-specific content area for the certification sought if the certification sought is for mathematics or science at or above Grade 7; or

(C) a passing score on the appropriate content certification examination as specified in the figure provided in this subparagraph [for the calendar year during which the applicant seeks admission. The applicant will not be required to successfully complete a passing score on the appropriate content certification examination until January 27, 2020].

Figure: 19 TAC §227.10(a)(4)(C)

[Figure: 49 TAC §227.10(a)(4)(C)]

(5) For an applicant who will be seeking an initial certificate in a class other than classroom teacher, the applicant shall meet the minimum requirements for admission described in Chapter 239 of this title (relating to Student Services Certificates); Chapter 241 of this title (relating to Certification as Principal [Certificate]); and Chapter 242 of this title (relating to Superintendent Certificate). If an applicant has not met the minimum certification, degree, and/or experience requirement(s) for issuance of a standard certificate prior to admission, the EPP shall inform the applicant in writing of any deficiency prior to admission.

(6) An applicant must demonstrate basic skills in reading, written communication, and mathematics by meeting the requirements of the Texas Success Initiative under the rules established by the Texas Higher Education Coordinating Board (THECB) in Part 1, Chapter 4, Subchapter C, of this title (relating to Texas Success Initiative), including one of the requirements established by §4.54 of this title (relating to Exemptions, Exceptions, and Waivers).

(7) An applicant must demonstrate the English language proficiency skills as specified in §230.11 of this title (relating to General Requirements).

(A) An applicant for CTE certification that does not require a bachelor's degree from an accredited IHE may satisfy the English language proficiency requirement with an associate's degree or high school diploma or the equivalent that was earned at an accredited IHE or an accredited high school in the United States.

(B) An applicant to a university undergraduate program that leads to a bachelor's degree may satisfy the English language proficiency requirement by meeting the English language proficiency requirement of the accredited IHE at which the applicant is enrolled.

(8) An applicant must submit an application and participate in either an interview or other screening instrument to determine if the EPP applicant's knowledge, experience, skills, and aptitude are appropriate for the certification sought.

(9) An applicant must fulfill any other academic criteria for admission that are published and applied consistently to all EPP applicants.

(b) An EPP may adopt admission requirements in addition to and not in conflict with those required in this section.

(c) An EPP may not admit an applicant who:

(1) has been reported as completing all EPP requirements by another EPP in the same certification category or class, unless the applicant only needs certification examination approval; or

(2) has been employed for three years in a public school under a permit, intern, or probationary certificate as specified in Chapter 230, Subchapter D, of this title (relating to Types and Classes of Certificates Issued), unless the applicant is seeking clinical teaching that may lead to the issuance of an initial standard certificate.

(d) An EPP may admit an applicant for CTE certification who has met the experience and preparation requirements specified in Chapter 230 of this title (relating to Professional Educator Preparation and Certification) and Chapter 233 of this title (relating to Categories of Classroom Teaching Certificates).

(e) An EPP may admit an applicant for the Trade and Industrial Workforce Training: Grades 6-12 certification who has met the following requirements:

(1) has been issued a high school diploma or a postsecondary credential, certificate, or degree;

(2) has seven years of full-time wage-earning experience within the preceding 10 years in an approved occupation for which instruction is offered;

(3) holds with respect to that occupation a current license, certificate, or registration, as applicable, issued by a nationally recognized accrediting agency based on a recognized test or measurement; and

(4) within the period described by paragraph (2) of this subsection, has not been the subject of a complaint filed with a licensing entity or other agency that regulates the occupation of the person, other than a complaint that was determined baseless or unfounded by that entity or agency.

(f) An EPP may admit an applicant who has met the minimum academic criteria through credentials from outside the United States that are determined to be equivalent to those required by this section using the procedures and standards specified in Chapter 245 of this title (relating to Certification of Educators from Other Countries). An EPP at an entity that is accredited by an accrediting organization recognized by the THECB may use its own foreign credential evaluation service to meet the requirement described in §245.10(a)(2) of this title (relating to Application Procedures), if the entity is in good standing with its accrediting organization.

(g) An applicant is eligible to enroll in an EPP for the purpose of completing the course of instruction, defined in §228.35(i)(2) of this title (relating to Preparation Program Coursework and/or Training), that is required for the issuance of an Early Childhood: Prekindergarten-Grade 3 certificate if the individual holds a valid standard, provisional, or one-year certificate specified in §230.31 of this title (relating to Types of Certificates) in one of the following certificate categories:

- (1) Bilingual Generalist: Early Childhood-Grade 4;
- (2) Bilingual Generalist: Early Childhood-Grade 6;
- (3) Core Subjects: Early Childhood-Grade 6;
- (4) Early Childhood Education;
- (5) Elementary--General;
- (6) Elementary--General (Grades 1-6);
- (7) Elementary--General (Grades 1-8);
- (8) Elementary Early Childhood Education (Prekindergarten-Grade 6);
- (9) Elementary Self-Contained (Grades 1-8);
- (10) English as a Second Language Generalist: Early Childhood-Grade 4;
- (11) English as a Second Language Generalist: Early Childhood-Grade 6;
- (12) Generalist: Early Childhood-Grade 4;
- (13) Generalist: Early Childhood-Grade 6;
- (14) Kindergarten;
- (15) Prekindergarten-Grade 5--General;
- (16) Prekindergarten-Grade 6--General; or
- (17) Teacher of Young Children--General.

*§227.15. Contingency Admission.*

(a) An applicant may be accepted into an alternative certification program or post-baccalaureate program on a contingency basis

pending receipt of an official transcript showing degree conferred, as specified in §227.10(a)(2) of this title (relating to Admission Criteria), provided that:

(1) the applicant is currently enrolled in and expects to complete the courses and other requirements for obtaining, at a minimum, a bachelor's degree at the end of the semester in which admission to the program is sought;

(2) all other admission requirements specified in §227.10 of this title have been met;

(3) the EPP must notify the applicant of the offer of contingency admission in writing by mail, personal delivery, facsimile, email, or an electronic notification; and

(4) the applicant must accept the offer of contingency admission in writing by mail, personal delivery, facsimile, email, or an electronic notification.

(b) The effective date of contingency admission shall be included in the offer of contingency admission.

(c) An EPP must notify the Texas Education Agency within seven calendar days of a candidate's contingency admission.

(d) An applicant admitted on a contingency basis may begin program training and may be approved to take a certification examination, but shall not be recommended for an intern or a probationary certificate until the bachelor's degree or higher from an accredited institution of higher education (IHE) has been conferred.

(e) Except as provided by this section, an alternative certification program or post-baccalaureate program, prior to admission on a contingency basis, shall not provide coursework, training, and/or examination approval to an applicant that leads to initial certification in any class of certificate. A post-baccalaureate or alternative certification program at an IHE may admit an applicant if coursework and training was provided by the same IHE as part of:

- (1) the degree to be conferred;
- (2) a prerequisite for a master's degree leading to initial certification; or
- (3) a different post-baccalaureate program of study.

(f) The contingency admission will be valid for only the fall, spring, or summer semester for which the contingency admission was granted and may not be extended for another semester. The end of each semester shall be consistent with the common calendar established by the Texas Higher Education Coordinating Board.

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

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Cristina De La Fuente-Valadez

Director, Rulemaking

State Board for Educator Certification

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For further information, please call: (512) 475-1475



## CHAPTER 228. REQUIREMENTS FOR EDUCATOR PREPARATION PROGRAMS

## 19 TAC §§228.2, 228.10, 228.15, 228.20, 228.30, 228.35, 228.40

The State Board for Educator Certification (SBEC) proposes amendments to §§228.2, 228.10, 228.15, 228.20, 228.30, 228.35, and 228.40, concerning requirements for educator preparation programs (EPPs). The proposed amendments would implement the statutory requirements of House Bill (HB) 18, 86th Texas Legislature, 2019; would provide specification for approval of teaching sites that are not Texas Education Agency (TEA)-accredited public schools; would provide guidance related to admitting and recommending candidates to programs that are closing or consolidating; would provide guidance for internships and clinical teaching in the summer; would add language for a dismissal policy for candidates; would simplify language relating to the reasons an EPP can stop supporting a candidate in an internship and the corresponding actions that must take place when a candidate leaves an internship; would provide clarification for the number of observations for practicums; and would provide clarification of and reorder provisions for technical formatting purposes throughout the rules.

**BACKGROUND INFORMATION AND JUSTIFICATION:** The SBEC rules in 19 Texas Administrative Code (TAC) Chapter 228, Requirements for Educator Preparation Programs, establish the requirements for EPPs. The proposed amendments would (1) provide guidance related to admitting candidates to EPPs that are closing or consolidating; (2) add language for a dismissal policy for candidates; (3) include language from HB 18, 86th Texas Legislature, 2019, that allows accredited institutions of higher education (IHEs) to offer a course or component of a course to meet the requirement for mental health, substance abuse, and teen suicide; (4) clarify that the curriculum provided to candidates in both classroom teacher and principal preparation includes the standards adopted by the SBEC; (5) provide simplified rule text for the reasons an EPP can stop supporting a candidate in an internship and the corresponding actions that must take place when a candidate leaves an internship; (6) provide guidance for candidate practicums where a portion of the practicum needs to take place during summer months; (7) add language for out-of-state and out-of-country clinical teaching and practicum experiences; (8) provide reordering and clarification for the number of observations that must total at least 135 minutes; and (9) provide guidance for EPPs on granting test approval for candidates where the standards and/or test has changed or five or more years have passed since the candidate was enrolled in the EPP. The following is a description of the proposed amendments.

### §228.2. Definitions.

The proposed amendment in new §228.2(5) would define *campus supervisor* as a school administrator or designee responsible for the annual performance appraisal of an intern. This definition is necessary to ensure clarification of the role of a campus.

The proposed amendment in §228.2(5) would be renumbered to paragraph (6) for technical formatting purposes.

The proposed amendment in new §228.2(7) would define *candidate coach* in §228.33(b)(1)-(3) as one who participates in a minimum of four observation/feedback coaching cycles provided by program supervisors, completes a TEA-approved observation training or has completed a minimum of 150 hours of observation/feedback training, and has current certification in the class in which supervision is provided. This definition is neces-

sary to ensure clarification of the role of a candidate coach as it relates to an intensive pre-service preparation program.

The proposed amendment in §228.2(6)-(33) would renumber the provisions to paragraphs (8)-(35) for technical formatting purposes.

### §228.10. Approval Process.

Proposed new §228.10(g) would provide clarification to EPPs on how to add replacement certificates to their certification offerings due to the addition of the science of teaching reading requirement codified in HB 3, 86th Texas Legislature, 2019. EPPs interested in these replacement certificates would be required to submit an attestation letter by December 1, 2020, that the EPP's curriculum would be updated by January 1, 2021, to prepare candidates for the replacement certificates that reflect the new science of teaching reading requirement. This would allow EPPs that are offering existing certificates to continue offering them in their new form without having to reapply and pay the application fee. EPPs that do not request authorization to issue replacement certificates by the deadline will have to apply as prescribed in §228.10 and candidates pursuing the current certificates who are in these programs and have not completed all program requirements by January 1, 2021, will be required to seek approval in an EPP that has requested the replacement certificates. The current and replacement certificates are:

Figure: 19 TAC Chapter 228 - Preamble

### §228.15. Program Consolidation or Closure.

Proposed new §228.15(3) would require that an EPP that is closing not admit candidates or recommend candidates for intern or probationary certificates within one year of the August 31 closure date, allowing candidates the necessary one-year minimum to complete program requirements and an internship.

Proposed new §228.15(5) would include payment of the Accountability System for Educator Preparation Program (ASEP) technology fee as part of the required actions by a program that is closing or consolidating to ensure that EPPs do not use consolidation or closure as a means to evade paying the required fee.

Proposed new §228.15(e) would prescribe that TEA staff will recommend the revocation of an EPP's continuing approval for violation of any of the required actions when closing or consolidating. This would ensure that EPPs focus on supporting currently enrolled candidates while going through the closure process rather than enrolling and admitting new candidates who will not be able to complete the program by the time of closure or consolidation.

The proposed amendment in §228.15(a)(3)-(4) would renumber the provisions to paragraphs (4)-(5) for technical formatting purposes.

### §228.20. Governance of Educator Preparation Programs.

Proposed new §228.20(h) would require an EPP to have a published exit policy that candidates review and sign upon admission. This would provide clarity for the candidates and the program in the event an EPP dismisses a candidate from the program.

### §228.30. Educator Preparation Curriculum.

The proposed amendment in §228.30(c)(3) would comply with the statutory requirements of HB 18, 86th Texas Legislature, 2019, that allow an accredited IHE or certain alternative certi-

fication programs to offer a course or component of a course to meet the mental health, substance abuse, and youth suicide training requirement as part of a degree program.

The proposed amendment in §228.30(d)(4) would clarify that the curriculum EPPs provide to candidates for the classroom teacher class of certifications must include the skills and competencies adopted by the SBEC, which are reflected in Chapter 235, Classroom Teacher Certification Standards. This would ensure alignment between EPP curriculum and the SBEC-approved standards for teachers and would provide consistency between different rule chapters.

The proposed amendment in §228.30(e) would clarify that the curriculum EPPs provide to candidates for the principal class of certificates include the skills and competencies adopted by the SBEC, which are reflected in Chapter 241, Certification as Principal. This would ensure alignment between the EPP curriculum and the SBEC-approved standards for principals.

The proposed amendment in §228.30(f) would update a cross reference for technical formatting purposes.

#### *§228.35. Preparation Program Coursework and/or Training.*

The proposed amendment in §228.35(b)(2) would clarify that the 150 clock-hours of coursework and/or training that are required prior to a candidate's clinical teaching or internship reflect the subject-matter curriculum prescribed in §228.30(d)(4) to ensure alignment with the SBEC-adopted classroom teacher standards.

The proposed amendment in §228.35(e)(2)(B)(vi) and (vii) would provide simplified rule text with a limited set of reasons that an EPP can stop supporting a candidate during an internship and what must happen if a candidate leaves an internship assignment. The proposed amendment to §228.35(e)(2)(B)(vi)(II)-(IV) would provide technical edits to remove duplicative language.

The proposed amendment in §228.35(e)(2)(B)(vii) and (viii) would renumber the provisions to clauses (ix)-(x) for technical formatting purposes.

Proposed new §228.35(e)(8)(B) would specify that a practicum may not take place exclusively during a summer recess. This would ensure that candidates for certification in a class other than classroom teacher (i.e., superintendent, principal, reading specialist, school librarian, school counselor, educational diagnostician) receive experience with the standards that include students, faculty, parents, and special committees that occur during the regular academic year.

The proposed amendment in §228.35(e)(8)(D) would update a cross reference for technical formatting purposes.

The proposed amendment in §228.35(e)(9)(C) and (D) would provide guidance for candidates who must complete requirements for clinical teaching or a practicum outside of the state of Texas, in subparagraph (C), and outside the United States, in subparagraph (D), as a result of specific circumstances. For clinical teaching or practicum outside of Texas, a candidate may be approved for placement at a specific site based on the military assignment of the candidate or spouse; an illness of the candidate or a family member for whom the candidate is the primary caretaker; the candidate becoming the primary caretaker of a family member residing out of state; or the candidate's or spouse's transfer of employment. This change is necessary to provide flexibility to candidates who undergo major life changes and clarity to TEA staff, candidates, and EPPs. This provides

flexibility with an emphasis on Texas-based clinical teaching and practicum experiences.

The proposed amendment in §228.35(h) would re-order paragraphs (1)-(3) to provide clarity regarding the number of minutes required for observations for practicum candidates.

The proposed amendment in §228.35(i)(2) and (3) would update cross references for technical formatting purposes.

#### *§228.40. Assessment and Evaluation of Candidates for Certification and Program Improvement.*

The proposed amendment in §228.40(d) comes at the request of EPPs and would provide guidance for EPPs and candidates in instances where a candidate completed a certification program but did not take the appropriate certification examination in a timely fashion. If the candidate returns to test after the standards and/or certification examination(s) have changed or after five or more years have passed following completion of the program, both the candidate and program would be at a disadvantage in terms of preparation. This revision would allow a program to determine examination readiness of the candidate and make test approval contingent on completing additional coursework and/or training as needed for the candidate to show he or she is prepared to pass the test following time away from the preparation.

**FISCAL IMPACT:** Ryan Franklin, associate commissioner for educator leadership and quality, has determined there is no additional fiscal impact on state and local governments and there are no additional costs to entities required to comply with the proposal.

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

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

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

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

**GOVERNMENT GROWTH IMPACT:** The TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not create a new regulation; would not expand, limit, or repeal an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

**PUBLIC BENEFIT AND COST TO PERSONS:** The public benefit anticipated as a result of the proposal would be the clear guidance to EPPs on requirements for providing preparation to an individual seeking certification as an educator. The TEA staff

has determined there is no anticipated cost to persons required to comply with the proposal.

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

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

**PUBLIC COMMENTS:** The public comment period on the proposal begins May 29, 2020 and ends June 29, 2020. A form for submitting public comments is available on the TEA website at [https://tea.texas.gov/About\\_TEA/Laws\\_and\\_Rules/SBEC\\_Rules\\_\(TAC\)/Proposed\\_State\\_Board\\_for\\_Educator\\_Certification\\_Rules/](https://tea.texas.gov/About_TEA/Laws_and_Rules/SBEC_Rules_(TAC)/Proposed_State_Board_for_Educator_Certification_Rules/). The SBEC will take registered oral and written comments on the proposal at the July 24, 2020 meeting in accordance with the SBEC board operating policies and procedures. All requests for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the Department of Educator Leadership and Quality, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701, Attention: Mr. Ryan Franklin, associate commissioner for educator leadership and quality, not more than 14 calendar days after notice of the proposal has been published in the *Texas Register* on May 29, 2020.

**STATUTORY AUTHORITY.** The amendments are proposed under Texas Education Code (TEC), §21.031, which authorizes the State Board for Educator Certification (SBEC) to regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators, and states that in proposing rules under the TEC, Chapter 21, Subchapter B, the SBEC shall ensure that all candidates for certification or renewal of certification demonstrate the knowledge and skills necessary to improve the performance of the diverse student population of this state; TEC, §21.041(b)(1) and (2), which require the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; and specify the classes of educator certificates to be issued, including emergency certificates; TEC, §21.044, as amended by Senate Bills (SBs) 7, 1839, and 1963, 85th Texas Legislature, Regular Session, 2017, and House Bill (HB) 18, 86th Texas Legislature, 2019, which requires the SBEC to propose rules establishing training requirements a person must accomplish to obtain a certificate, enter an internship, or enter an induction-year program; TEC, §21.0442(c), as added by HB 3349, 85th Texas Legislature, Regular Session, 2017, which requires the SBEC to ensure that an EPP requires at least 80 hours of instruction for a candidate seeking a Trade and Industrial Workforce Training certificate; TEC, §21.0443, which requires the SBEC to establish rules for the approval and renewal of EPPs; TEC, §21.045(a), which states that the board shall propose rules establishing standards to govern the approval and continuing accountability of all EPPs; TEC, §21.0453, which states that the SBEC may propose rules as necessary to ensure that all EPPs provide the SBEC with accurate information; TEC, §21.0454, which requires the SBEC to develop a set of risk factors to assess the overall risk level of each EPP and use the set of risk factors to guide the Texas Education Agency in conducting monitoring, inspections, and evaluations of EPPs; TEC, §21.0455, which requires the SBEC to propose rules necessary to establish a process for complaints to be directed against an EPP; TEC, §21.046(b), which states that the qualifications for certification as a principal must

be sufficiently flexible so that an outstanding teacher may qualify by substituting approved experience and professional training for part of the educational requirements; TEC, §21.048(a), which requires the SBEC to propose rules prescribing comprehensive examinations for each class of certificate issued by the SBEC. The commissioner shall determine the satisfactory level of performance required for each certification examination. For the issuance of a generalist certificate, the commissioner shall require a satisfactory level of examination performance in each core subject covered by the examination; TEC, §21.0485, which states the issuance requirements for certification to teach students with visual impairments; TEC, §21.0487(c), which states that because an effective principal is essential to school improvement, the SBEC shall ensure that each candidate for certification as a principal is of the highest caliber and that multi-level screening processes, validated comprehensive assessment programs, and flexible internships with successful mentors exist to determine whether a candidate for certification as a principal possesses the essential knowledge, skills, and leadership capabilities necessary for success; TEC, §21.0489(c), as added by SB 1839 and HB 2039, 85th Texas Legislature, Regular Session, 2017, which states the eligibility for an Early Childhood: Prekindergarten-Grade 3 certificate; TEC, §21.049(a), which authorizes the SBEC to adopt rules providing for educator certification programs as an alternative to traditional EPPs; TEC, §21.0491, which requires the SBEC to create a probationary and standard trade and industrial workforce training certificate; TEC, §21.050(a), which requires a person who applies for a teaching certificate for which SBEC rules require a bachelor's degree to possess a bachelor's degree received with an academic major or interdisciplinary academic major, including reading, other than education, that is related to the curriculum as prescribed under the TEC, Chapter 28, Subchapter A; TEC, §21.050(b), which states that the SBEC may not require more than 18 semester credit hours of education courses at the baccalaureate level for the granting of a teaching certificate; TEC, §21.050(c), which states that a person who receives a bachelor's degree required for a teaching certificate on the basis of higher education coursework completed while receiving an exemption from tuition and fees under the TEC, §54.363, may not be required to participate in any field experience or internship consisting of student teaching to receive a teaching certificate; TEC, §21.051, as amended by SB 1839, 85th Texas Legislature, Regular Session, 2017, which provides a requirement that before a school may employ a certification candidate as a teacher of record, the candidate must have completed at least 15 hours of field-based experience in which the candidate was actively engaged at an approved school in instructional or educational activities under supervision; and Texas Occupations Code, §55.007, which provides that verified military service, training, and education be credited toward licensing requirements.

**CROSS REFERENCE TO STATUTE.** The amendments implement Texas Education Code (TEC), §§21.031; 21.041(b)(1) and (2); 21.044, as amended by Senate Bills (SBs) 7, 1839, and 1963, 85th Texas Legislature, Regular Session, 2017, and House Bill (HB) 18, 86th Texas Legislature, 2019; 21.0442(c), as added by HB 3349, 85th Texas Legislature, Regular Session, 2017; 21.0443; 21.045(a); 21.0453; 21.0454; 21.0455; 21.046(b); 21.048(a); 21.0485; 21.0487(c); 21.0489(c), as added by SB 1839 and HB 2039, 85th Texas Legislature, Regular Session, 2017; 21.049(a); 21.0491, as added by HB 3349, 85th Texas Legislature, Regular Session, 2017; 21.050(a)-(c); and 21.051, as amended by SB 1839, 85th Texas Legislature,



Regular Session, 2017; and the Texas Occupations Code, §55.007.

*§228.2. Definitions.*

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

(1) Academic year--If not referring to the academic year of a particular public, private, or charter school or institution of higher education, September 1 through August 31.

(2) Accredited institution of higher education--An institution of higher education that, at the time it conferred the degree, was accredited or otherwise approved by an accrediting organization recognized by the Texas Higher Education Coordinating Board.

(3) Alternative certification program--An approved educator preparation program, delivered by entities described in §228.20(a) of this title (relating to Governance of Educator Preparation Programs), specifically designed as an alternative to a traditional undergraduate certification program, for individuals already holding at least a bachelor's degree from an accredited institution of higher education.

(4) Benchmarks--A record similar to a transcript for each candidate enrolled in an educator preparation program documenting the completion of admission, program, certification, and other requirements.

(5) Campus supervisor--A school administrator or designee responsible for the annual performance appraisal of an intern.

(6) [(5)] Candidate--An individual who has been formally or contingently admitted into an educator preparation program; also referred to as an enrollee or participant.

(7) Candidate coach--A person as defined in §228.33(b)(1)-(3) of this title (relating to Intensive Pre-Service) who participates in a minimum of four observation/feedback coaching cycles provided by program supervisors, completes a Texas Education Agency-approved observation training or has completed a minimum of 150 hours of observation/feedback training, and has current certification in the class in which supervision is provided.

(8) [(6)] Certification category--A certificate type within a certification class, as described in Chapter 233 of this title (relating to Categories of Classroom Teaching Certificates).

(9) [(7)] Certification class--A certificate, as described in §230.33 of this title (relating to Classes of Certificates), that has defined characteristics; may contain one or more certification categories, as described in Chapter 233 of this title.

(10) [(8)] Classroom teacher--An educator who is employed by a school or district and who, not less than an average of four hours each day, teaches in an academic instructional setting or a career and technical instructional setting. This term does not include an educational aide or a full-time administrator.

(11) [(9)] Clinical teaching--A supervised educator assignment through an educator preparation program at a public school accredited by the Texas Education Agency (TEA) or other school approved by the TEA for this purpose that may lead to completion of a standard certificate; also referred to as student teaching.

(12) [(10)] Clock-hours--The actual number of hours of coursework or training provided; for purposes of calculating the training and coursework required by this chapter, one semester credit hour at an accredited institution of higher education is equivalent to 15 clock-hours. Clock-hours of field-based experiences, clinical teaching, internship, and practicum are actual hours spent in the required educational activities and experiences.

(13) [(11)] Contingency admission--Admission as described in §227.15 of this title (relating to Contingency Admission).

(14) [(12)] Cooperating teacher--For a clinical teacher candidate, an educator who is collaboratively assigned by the educator preparation program (EPP) and campus administrator; who has at least three years of teaching experience; who is an accomplished educator as shown by student learning; who has completed cooperating teacher training, including training in how to coach and mentor teacher candidates, by the EPP within three weeks of being assigned to a clinical teacher; who is currently certified in the certification category for the clinical teaching assignment for which the clinical teacher candidate is seeking certification; who guides, assists, and supports the candidate during the candidate's clinical teaching in areas such as planning, classroom management, instruction, assessment, working with parents, obtaining materials, district policies; and who reports the candidate's progress to that candidate's field supervisor.

(15) [(13)] Educator preparation program--An entity that must be approved by the State Board for Educator Certification to recommend candidates in one or more educator certification classes.

(16) [(14)] Entity--The legal entity that is approved to deliver an educator preparation program.

(17) [(15)] Field-based experiences--Introductory experiences for a classroom teacher certification candidate involving, at the minimum, reflective observation of Early Childhood-Grade 12 students, teachers, and faculty/staff members engaging in educational activities in a school setting.

(18) [(16)] Field supervisor--A currently certified educator, hired by the educator preparation program, who preferably has advanced credentials, to observe candidates, monitor their performance, and provide constructive feedback to improve their effectiveness as educators. A field supervisor shall have at least three years of experience and current certification in the class in which supervision is provided. A field supervisor shall be an accomplished educator as shown by student learning. A field supervisor with experience as a campus-level administrator and who holds a current certificate that is appropriate for a principal assignment may also supervise classroom teacher, master teacher, and reading specialist candidates. A field supervisor with experience as a district-level administrator and who holds a current certificate that is appropriate for a superintendent assignment may also supervise principal candidates. If an individual is not currently certified, an individual must hold at least a master's degree in the academic area or field related to the certification class for which supervision is being provided and comply with the same number, content, and type of continuing professional education requirements described in §232.11 of this title (relating to Number and Content of Required Continuing Professional Education Hours), §232.13 of this title (relating to Number of Required Continuing Professional Education Hours by Classes of Certificates), and §232.15 of this title (relating to Types of Acceptable Continuing Professional Education Activities). A field supervisor shall not be employed by the same school where the candidate being supervised is completing his or her clinical teaching, internship, or practicum. A mentor, cooperating teacher, or site supervisor, assigned as required by §228.35(f) of this title (relating to Preparation Program Coursework and/or Training), may not also serve as a candidate's field supervisor.

(19) [(17)] Formal admission--Admission as described in §227.17 of this title (relating to Formal Admission).

(20) [(18)] Head Start Program--The federal program established under the Head Start Act (42 United States Code, §9801 et seq.) and its subsequent amendments.

(21) ~~[(19)]~~ Initial certification--The first Texas certificate in a class of certificate issued to an individual based on participation in an approved educator preparation program.

(22) ~~[(20)]~~ Intensive Pre-Service--An educator assignment supervised by an educator preparation program accredited and approved by the State Board for Educator Certification prior to a candidate meeting the requirements for issuance of intern and probationary certificates.

(23) ~~[(21)]~~ Intern certificate--A type of certificate as specified in §230.36 of this title (relating to Intern Certificates) that is issued to a candidate who has passed all required content pedagogy certification examinations and is completing initial requirements for certification through an approved educator preparation program.

(24) ~~[(22)]~~ Internship--A paid supervised classroom teacher assignment for one full school year at a public school accredited by the Texas Education Agency (TEA) or other school approved by the TEA for this purpose that may lead to completion of a standard certificate.

(25) ~~[(23)]~~ Late hire--An individual who has not been accepted into an educator preparation program before the 45th day before the first day of instruction and who is hired for a teaching assignment by a school after the 45th day before the first day of instruction or after the school's academic year has begun.

(26) ~~[(24)]~~ Mentor--For an internship candidate, an educator who is collaboratively assigned by the campus administrator and the educator preparation program (EPP); who has at least three years of teaching experience; who is an accomplished educator as shown by student learning; who has completed mentor training, including training in how to coach and mentor teacher candidates, by an EPP within three weeks of being assigned to the intern; who is currently certified in the certification category in which the internship candidate is seeking certification; who guides, assists, and supports the candidate during the internship in areas such as planning, classroom management, instruction, assessment, working with parents, obtaining materials, district policies; and who reports the candidate's progress to that candidate's field supervisor.

(27) ~~[(25)]~~ Pedagogy--The art and science of teaching, incorporating instructional methods that are developed from scientifically-based research.

(28) ~~[(26)]~~ Post-baccalaureate program--An educator preparation program, delivered by an accredited institution of higher education and approved by the State Board for Educator Certification to recommend candidates for certification, that is designed for individuals who already hold at least a bachelor's degree and are seeking an additional degree.

(29) ~~[(27)]~~ Practicum--A supervised educator assignment at a public school accredited by the Texas Education Agency (TEA) or other school approved by the TEA for this purpose that is in a school setting in the particular class for which a certificate in a class other than classroom teacher is sought.

(30) ~~[(28)]~~ Probationary certificate--A type of certificate as specified in §230.37 of this title (relating to Probationary Certificates) that is issued to a candidate who has passed all required certification examinations and is completing requirements for certification through an approved educator preparation program.

(31) ~~[(29)]~~ School day--If not referring to the school day of a particular public or private school, a school day shall be at least seven hours (420 minutes) each day, including intermissions and recesses.

(32) ~~[(30)]~~ School year--If not referring to the school year of a particular public or private school, a school year shall provide at least 180 days (75,600 minutes) of instruction for students.

(33) ~~[(31)]~~ Site supervisor--For a practicum candidate, an educator who has at least three years of experience in the aspect(s) of the certification class being pursued by the candidate; who is collaboratively assigned by the campus or district administrator and the educator preparation program (EPP); who is currently certified in the certification class in which the practicum candidate is seeking certification; who has completed training by the EPP, including training in how to coach and mentor candidates, within three weeks of being assigned to a practicum candidate; who is an accomplished educator as shown by student learning; who guides, assists, and supports the candidate during the practicum; and who reports the candidate's progress to the candidate's field supervisor.

(34) ~~[(32)]~~ Texas Education Agency staff--Staff of the Texas Education Agency assigned by the commissioner of education to perform the State Board for Educator Certification's administrative functions and services.

(35) ~~[(33)]~~ Texas Essential Knowledge and Skills (TEKS)--The kindergarten-Grade 12 state curriculum in Texas adopted by the State Board of Education and used as the foundation of all state certification examinations.

#### §228.10. Approval Process.

(a) New entity approval. An entity seeking initial approval to deliver an educator preparation program (EPP) shall submit an application and proposal with evidence indicating the ability to comply with the provisions of this chapter, Chapter 227 of this title (relating to Provisions for Educator Preparation Candidates), Chapter 229 of this title (relating to Accountability System for Educator Preparation Programs), and Chapter 230 of this title (relating to Professional Educator Preparation and Certification). The proposal will be reviewed by the Texas Education Agency (TEA) staff and a pre-approval site visit will be conducted. The TEA staff shall recommend to the State Board for Educator Certification (SBEC) whether the entity should be approved. A post-approval site visit will be conducted after the first year of the EPP's operation.

(1) The proposal shall include the following program approval components:

- (A) ownership and governance of the EPP;
- (B) criteria for admission to the EPP;
- (C) EPP curriculum;
- (D) EPP coursework and/or training, including ongoing support during clinical teaching, internship, and practicum experiences;
- (E) certification procedures;
- (F) assessment and evaluation of candidates for certification and EPP improvement;
- (G) professional conduct of EPP staff and candidates;
- (H) EPP complaint procedures; and
- (I) required submissions of information, surveys, and other accountability data.

(2) The proposal shall also include identification of the classes and categories of certificates proposed to be offered by the entity.

(b) Continuing entity approval. An entity approved by the SBEC under this chapter shall be reviewed at least once every five years; however, a review may be conducted at any time at the discretion of the TEA staff.

(1) At the time of the review, the entity shall submit to the TEA staff a status report regarding its compliance with existing standards and requirements for EPPs. An EPP is responsible for establishing procedures and practices sufficient to ensure the security of information against unauthorized or accidental access, disclosure, modification, destruction, or misuse prior to the expiration of the retention period. Evidence of compliance is described in the figure provided in this paragraph.

Figure: 19 TAC §228.10(b)(1) (No change.)

(2) Unless specified otherwise, the entity must retain evidence of compliance described in the figure in paragraph (1) of this subsection for a period of five years.

(3) TEA staff shall, at the minimum, use the following risk factors to determine the need for discretionary reviews and the type of five-year reviews:

(A) a history of the program's compliance with state law and board rules, standards, and procedures, with consideration given to:

(i) the seriousness of any violation of a rule, standard, or procedure;

(ii) whether the violation resulted in an action being taken against the program;

(iii) whether the violation was promptly remedied by the program;

(iv) the number of alleged violations; and

(v) any other matter considered to be appropriate in evaluating the program's compliance history;

(B) whether the program meets the accountability standards under Texas Education Code, §21.045; and

(C) whether a program is accredited by other organizations.

(c) Approval of clinical teaching for an alternative certification program. An alternative certification program seeking approval to implement a clinical teaching component shall submit a description of the following elements of the program for approval by the TEA staff on an application in a form developed by the TEA staff that shall include, at a minimum:

(1) general clinical teaching program description, including conditions under which clinical teaching may be implemented;

(2) selection criteria for clinical teachers;

(3) selection criteria for cooperating teachers;

(4) description of support and communication between candidates, cooperating teachers, and the alternative certification program;

(5) description of program supervision; and

(6) description of how candidates are evaluated.

(d) Addition of certificate categories and classes.

(1) An EPP that is rated "accredited," as provided in §229.4 of this title (relating to Determination of Accreditation Status), may request additional certificate categories be approved by TEA staff, by

submitting an application in a form developed by the TEA staff that shall include, at a minimum, the curriculum matrix; a description of how the standards for Texas educators are incorporated into the EPP; and documentation showing that the program has the staff knowledge and expertise to support individuals participating in each certification category being requested. The curriculum matrix must include the standards, framework competencies, applicable Texas Essential Knowledge and Skills, course and/or module names, and the benchmarks or assessments used to measure successful program progress.

(2) An EPP rated "accredited" and currently approved to offer a certificate for which the SBEC is changing the grade level of the certificate may request to offer the preapproved category at different grade levels by submitting an application in a form developed by the TEA staff that shall include, at a minimum, a modified curriculum matrix that includes the standards, course and/or module names, and the benchmarks or assessments used to measure successful program progress. The requested additional certificate categories must be within the classes of certificates for which the EPP has been previously approved by the SBEC.

(3) An EPP that is not rated "accredited" may not apply to offer additional certificate categories or classes of certificates.

(4) An EPP that is rated "accredited" may request the addition of a certificate class that has not been previously approved by the SBEC, but must present a full proposal on an application in a form developed by the TEA staff for consideration and approval by the SBEC.

(e) Addition of program locations. An EPP that is rated "accredited," may open additional locations, provided the program informs the SBEC of any additional locations at which the program is providing educator preparation 60 days prior to providing educator preparation at the location. Additional program locations must operate in accordance with the program components under which the program has been approved to operate.

(f) Contingency of approval. Approval of an EPP by the SBEC, including each specific certificate class and category, is contingent upon approval by other lawfully established governing bodies such as the Texas Higher Education Coordinating Board, boards of regents, or school district boards of trustees. Continuing EPP approval is contingent upon compliance with superseding state and federal law.

(g) Notwithstanding any other provisions of this section, a program that is approved to offer certificates that the SBEC has replaced with new certificates, which require a science of teaching reading assessment, may be approved to offer the certificates by submitting on or before December 1, 2020, a request to offer the new certificates in a form developed by the TEA staff. This request must include at a minimum an attestation signed by the program's legal authority of the program's intent to modify its curriculum by January 1, 2021, as necessary to prepare candidates for the new certificate. Programs may be approved to offer the new certificates only for the route(s) for which they are approved to offer the existing certificates. A program that does not file a request for approval to offer the new certificates on or before December 1, 2020, may apply for authorization using the process described in subsection (d) of this section. The eligible certificates are as follows:

(1) a program approved to offer Core Subjects: Early Childhood-6 may request to offer Core Subjects with Science of Teaching Reading: Early Childhood-6;

(2) a program approved to offer Core Subjects: Grades 4-8 may request to offer Core Subjects with Science of Teaching Reading: Grades 4-8;

(3) a program approved to offer English Language Arts and Reading: Grades 4-8 may request to offer English Language Arts and Reading with Science of Teaching Reading: Grades 4-8; and

(4) a program approved to offer English Language Arts and Reading/Social Studies: Grades 4-8 may request to offer English Language Arts and Reading/Social Studies with Science of Teaching Reading: Grades 4-8.

*§228.15. Program Consolidation or Closure.*

(a) An educator preparation program (EPP) that is consolidating or closing must comply with the following procedures to ensure that all issues relevant to EPP consolidation or closure have been addressed.

(1) The EPP must submit a letter on official letterhead to Texas Education Agency (TEA) staff signed by the legal authority of the EPP that contains a formal statement of consolidation or closing with an effective date of August 31 for consolidation or closure.

(2) The EPP must contact candidates currently in the EPP with notification of consolidation or closure and the steps candidates must take in relation to their status. The EPP shall maintain evidence of the attempts to notify each candidate.

(3) The EPP shall not admit candidates or recommend candidates for an intern or probationary certificate within one year of the August 31 closure date.

(4) [(3)] The EPP must identify and keep current a representative's name, electronic mail address, and telephone number that will be valid for five years after an EPP's closure to provide access to candidate records and responses to former candidate's questions and/or issues. If an EPP is consolidating, the candidate records will transfer to the new EPP.

(5) [(4)] The EPP must complete required State Board for Educator Certification (SBEC) and TEA actions, including [such as] required submissions of information, surveys, and other accountability data; removal of security accesses; [and] reconciliation of certification recommendations; and payment of the Accountability System for Educator Preparation Programs technology fee as specified in §229.9(7) of this title (relating to Fees for Educator Preparation Program Approval and Accountability).

(b) The chief operating officer, legal authority, or a member of the governing body of an EPP that fails to comply with the consolidation or closure procedures in this section is not eligible to be recommended to the SBEC for approval as an EPP.

(c) The chief operating officer, legal authority, or a member of the governing body of an EPP that closes voluntarily due to pending TEA or SBEC action or involuntarily due to SBEC action is not eligible to be recommended to the SBEC for approval as an EPP.

(d) If an EPP is consolidating and fails to comply with the consolidation procedures in this section, TEA staff may make a recommendation that the SBEC impose sanctions affecting the new EPP's accreditation status in accordance with §229.5 of this title (relating to Accreditation Sanctions and Procedures) and/or continuing approval status in accordance with §229.6 of this title (relating to Continuing Approval).

(e) If an EPP violates any of the requirements as prescribed in subsection (a)(1)-(5) of this section, TEA staff will recommend revocation of the EPP's continuing approval to recommend candidates in accordance with §229.6(c) of this title.

*§228.20. Governance of Educator Preparation Programs.*

(a) Preparation for the certification of educators may be delivered by an institution of higher education, regional education service center, public school district, or other entity approved by the State Board for Educator Certification (SBEC) under §228.10 of this title (relating to Approval Process).

(b) The preparation of educators shall be a collaborative effort among public schools accredited by the Texas Education Agency (TEA) and/or TEA-recognized private schools; regional education service centers; institutions of higher education; and/or business and community interests; and shall be delivered in cooperation with public schools accredited by the TEA and/or TEA-recognized private schools. An advisory committee with members representing as many as possible of the groups identified as collaborators in this subsection shall assist in the design, delivery, evaluation, and major policy decisions of the educator preparation program (EPP). The approved EPP shall inform each member of the advisory committee of the roles and responsibilities of the advisory committee and shall meet a minimum of once during each academic year.

(c) The governing body and chief operating officer of an entity approved to deliver educator preparation shall provide sufficient support to enable the EPP to meet all standards set by the SBEC and shall be accountable for the quality of the EPP and the candidates whom the program recommends for certification.

(d) All EPPs must be implemented as approved by the SBEC as specified in §228.10 of this title.

(e) An EPP that is rated "accredited" or "accredited-not rated" may amend its program, provided the program informs TEA staff of any amendments 60 days prior to implementing the amendments. An EPP must submit notification of a proposed amendment to its program on a letter signed by the EPP's legally authorized agent or representative that explains the amendment, details the rationale for changes, and includes documents relevant to the amendment.

(f) An EPP that is not rated "accredited" or "accredited-not rated" may amend its program, provided the program informs TEA staff of any amendments 120 days prior to implementing the amendments. An EPP must submit notification of a proposed amendment on a letter signed by the EPP's legally authorized agent or representative that explains the amendment, details the rationale for changes, and includes documents relevant to the amendment. The EPP will be notified in writing of the approval or denial of its proposal within 60 days following the receipt of the notification by the TEA staff.

(g) Each EPP must develop and implement a calendar of program activities that must include a deadline for accepting candidates into a program cycle to assure adequate time for admission, coursework, training, and field-based experience requirements prior to a clinical teaching or internship experience. If an EPP accepts candidates after the deadline, the EPP must develop and implement a calendar of program activities to assure adequate time for admission, coursework, training, and field-based experience requirements prior to a clinical teaching experience or prior to or during an internship experience.

(h) All EPPs shall have a published exit policy for dismissal of candidates that is reviewed and signed by candidates upon admission.

*§228.30. Educator Preparation Curriculum.*

(a) The educator standards adopted by the State Board for Educator Certification shall be the curricular basis for all educator preparation and, for each certificate, address the relevant Texas Essential Knowledge and Skills (TEKS).

(b) The curriculum for each educator preparation program shall rely on scientifically-based research to ensure educator effectiveness.

(c) The following subject matter shall be included in the curriculum for candidates seeking initial certification in any certification class:

(1) the code of ethics and standard practices for Texas educators, pursuant to Chapter 247 of this title (relating to Educators' Code of Ethics), which include:

(A) professional ethical conduct, practices, and performance;

(B) ethical conduct toward professional colleagues; and

(C) ethical conduct toward students;

(2) instruction in detection and education of students with dyslexia, as indicated in the Texas Education Code (TEC), §21.044(b);

(3) instruction regarding mental health, substance abuse, and youth suicide, as indicated in the TEC, §21.044(c-1). Instruction acquired from the list of recommended best practice-based programs or from an accredited institution of higher education or an alternative certification program as part of a degree plan [or research-based practices] shall be implemented as required by the provider of the best practice-based program or research-based practice;

(4) the skills that educators are required to possess, the responsibilities that educators are required to accept, and the high expectations for students in this state;

(5) the importance of building strong classroom management skills;

(6) the framework in this state for teacher and principal evaluation;

(7) appropriate relationships, boundaries, and communications between educators and students; and

(8) instruction in digital learning, including a digital literacy evaluation followed by a prescribed digital learning curriculum. The instruction required must:

(A) be aligned with the latest version of the International Society for Technology in Education's (ISTE) standards as appears on the ISTE website;

(B) provide effective, evidence-based strategies to determine a person's degree of digital literacy; and

(C) include resources to address any deficiencies identified by the digital literacy evaluation.

(d) The following subject matter shall be included in the curriculum for candidates seeking initial certification in the classroom teacher certification class:

(1) the relevant TEKS, including the English Language Proficiency Standards;

(2) reading instruction, including instruction that improves students' content-area literacy;

(3) for certificates that include early childhood and prekindergarten, the Prekindergarten Guidelines; and

(4) the skills and competencies as prescribed in Chapter 235 of this title (relating to Classroom Teacher Certification Standards) and captured in the Texas teacher standards in Chapter 149, Subchapter AA, of this title (relating to Teacher Standards).

(e) For candidates seeking certification in the principal certification class, the curriculum shall include the skills and competencies as prescribed in Chapter 241 of this title (relating to Certification as Prin-

cipal) and captured in the Texas administrator standards, as indicated in Chapter 149, Subchapter BB, of this title (relating to Administrator Standards).

(f) The following educator content standards from Chapter 235 of this title [~~(relating to Classroom Teacher Certification Standards)~~] shall be included in the curriculum for candidates who hold a valid standard, provisional, or one-year classroom teacher certificate specified in §230.31 of this title (relating to Types of Certificates) in a certificate category that allows the candidates who are seeking the Early Childhood: Prekindergarten-Grade 3 certificate to teach all subjects in Prekindergarten, Kindergarten, Grade 1, Grade 2, or Grade 3:

(1) Child Development provisions of the Early Childhood: Prekindergarten-Grade 3 Content Standards;

(2) Early Childhood-Grade 3 Pedagogy and Professional Responsibilities Standards; and

(3) Science of Teaching Reading Standards.

§228.35. *Preparation Program Coursework and/or Training.*

(a) Coursework and/or training for candidates seeking initial certification in any certification class.

(1) An educator preparation program (EPP) shall provide coursework and/or training to adequately prepare candidates for educator certification and ensure the educator is effective in the classroom.

(2) Coursework and/or training shall be sustained, rigorous, intensive, interactive, candidate-focused, and performance-based.

(3) All coursework and/or training shall be completed prior to EPP completion and standard certification.

(4) With appropriate documentation such as certificate of attendance, sign-in sheet, or other written school district verification, 50 clock-hours of training may be provided by a school district and/or campus that is an approved Texas Education Agency (TEA) continuing professional education provider to a candidate who is considered a late hire. The training provided by the school district and/or campus must meet the criteria described in the Texas Education Code (TEC), §21.451 (Staff Development Requirements) and must be directly related to the certificate being sought.

(5) Each EPP must develop and implement specific criteria and procedures that allow:

(A) military service member or military veteran candidates to credit verified military service, training, or education toward the training, education, work experience, or related requirements (other than certification examinations) for educator certification requirements, provided that the military service, training, or education is directly related to the certificate being sought; and

(B) candidates who are not military service members or military veterans to substitute prior or ongoing service, training, or education, provided that the experience, education, or training is not also counted as a part of the internship, clinical teaching, or practicum requirements, was provided by an approved EPP or an accredited institution of higher education within the past five years, and is directly related to the certificate being sought.

(6) Coursework and training that is offered online must meet, or the EPP must be making progress toward meeting, criteria set for accreditation, quality assurance, and/or compliance with one or more of the following:

(A) Accreditation or Certification by the Distance Education Accrediting Commission;

(B) Program Design and Teaching Support Certification by Quality Matters;

(C) Part 1, Chapter 4, Subchapter P, of this title (relating to Approval of Distance Education Courses and Programs for Public Institutions); or

(D) Part 1, Chapter 7 of this title (relating to Degree Granting Colleges and Universities Other than Texas Public Institutions).

(b) Coursework and/or training for candidates seeking initial certification in the classroom teacher certification class. An EPP shall provide each candidate with a minimum of 300 clock-hours of coursework and/or training. An EPP shall provide a minimum of 200 clock-hours of coursework and/or training for a candidate seeking a Trade and Industrial Workforce Training certificate as specified by §233.14(e) of this title (relating to Career and Technical Education (Certificates requiring experience and preparation in a skill area)). Unless a candidate qualifies as a late hire, a candidate shall complete the following prior to any clinical teaching or internship:

(1) a minimum of 30 clock-hours of field-based experience. Up to 15 clock-hours of this field-based experience may be provided by use of electronic transmission or other video or technology-based method; and

(2) 150 clock-hours of coursework and/or training as prescribed in §228.30(d)(4) of this title (relating to Educator Preparation Curriculum) that allows candidates to demonstrate proficiency in:

(A) designing clear, well-organized, sequential, engaging, and flexible lessons that reflect best practice, align with standards and related content, are appropriate for diverse learners and encourage higher-order thinking, persistence, and achievement;

(B) formally and informally collecting, analyzing, and using student progress data to inform instruction and make needed lesson adjustments;

(C) ensuring high levels of learning, social-emotional development, and achievement for all students through knowledge of students, proven practices, and differentiated instruction;

(D) clearly and accurately communicating to support persistence, deeper learning, and effective effort;

(E) organizing a safe, accessible, and efficient classroom;

(F) establishing, communicating, and maintaining clear expectations for student behavior;

(G) leading a mutually respectful and collaborative class of actively engaged learners;

(H) meeting expectations for attendance, professional appearance, decorum, procedural, ethical, legal, and statutory responsibilities;

(I) reflect on his or her practice; and

(J) effectively communicating with students, families, colleagues, and community members.

(c) Coursework and/or training for candidates seeking initial certification in a certification class other than classroom teacher. An EPP shall provide coursework and/or training to ensure that the educator is effective in the assignment. An EPP shall provide a candidate with a minimum of 200 clock-hours of coursework and/or training that is directly aligned to the educator standards for the applicable certification class.

(d) Late hire provisions. A late hire for a school district teaching position may begin employment under an intern or probationary certificate before completing the pre-internship requirements of subsection (b) of this section, but shall complete these requirements within 90 school days of assignment.

(e) Educator preparation program delivery. An EPP shall provide evidence of ongoing and relevant field-based experiences throughout the EPP in a variety of educational settings with diverse student populations, including observation, modeling, and demonstration of effective practices to improve student learning.

(1) For initial certification in the classroom teacher certification class, each EPP shall provide field-based experiences, as defined in §228.2 of this title (relating to Definitions), for a minimum of 30 clock-hours. The field-based experiences must be completed prior to assignment in an internship or clinical teaching.

(A) Field-based experiences must include 15 clock-hours in which the candidate, under the direction of the EPP, is actively engaged in instructional or educational activities that include:

(i) authentic school settings in a public school accredited by the TEA or other school approved by the TEA for this purpose;

(ii) instruction by content certified teachers;

(iii) actual students in classrooms/instructional settings with identity-proof provisions;

(iv) content or grade-level specific classrooms/instructional settings; and

(v) written reflection of the observation.

(B) Up to 15 clock-hours of field-based experience may be provided by use of electronic transmission or other video or technology-based method. Field-based experience provided by use of electronic transmission or other video or technology-based method must include:

(i) direction of the EPP;

(ii) authentic school settings in an accredited public or private school;

(iii) instruction by content certified teachers;

(iv) actual students in classrooms/instructional settings with identity-proof provisions;

(v) content or grade-level specific classrooms/instructional settings; and

(vi) written reflection of the observation.

(C) Up to 15 clock-hours of field-based experience may be satisfied by serving as a long-term substitute. A long-term substitute is an individual who has been hired by a school or district to work at least 30 consecutive days in an assignment as a classroom teacher. Experience may occur after the candidate's admission to an EPP or during the two years before the date the candidate is admitted to the EPP. The candidate's experience in instructional or educational activities must be documented by the EPP and must be obtained at a public or private school accredited or approved for the purpose by the TEA.

(2) For initial certification in the classroom teacher certification class, each EPP shall also provide at least one of the following.

(A) Clinical Teaching. A candidate must have a clinical teaching assignment for each subject area in which the candidate is seeking initial certification.

(i) For a candidate seeking initial certification in only one subject area, the following provisions apply.

(I) Clinical teaching must meet one of the following requirements:

(-a-) a minimum of 14 weeks (no fewer than 70 full days), with a full day being 100% of the school day; or

(-b-) a minimum of 28 weeks (no fewer than 140 half days), with a half day being 50% of the school day.

(II) A clinical teaching assignment as described in subclause (I)(-a-) of this clause shall not be less than an average of four hours each day in the subject area and grade level of certification sought. The average includes intermissions and recesses but does not include conference and duty-free lunch periods.

(ii) For a candidate seeking initial certification in more than one subject area, the primary teaching assignment must meet the requirements of clause (i)(I)(-a-) of this subparagraph. Additional clinical teaching assignments in other subject areas may be less than an average of four hours each day during the 14 weeks of clinical teaching if:

(I) the primary assignment is not less than an average of four hours each day in the subject area and grade level of certification sought;

(II) the EPP is approved to offer preparation in the certification category required for the additional assignment;

(III) the EPP provides ongoing support for each assignment as prescribed in subsection (g) of this section;

(IV) the EPP provides coursework and training for each assignment to adequately prepare the candidate to be effective in the classroom; and

(V) the campus administrator agrees to assign a qualified cooperating teacher appropriate to each assignment.

(iii) Clinical teaching is successful when the candidate demonstrates proficiency in each of the educator standards for the assignment and the field supervisor and cooperating teacher recommend to the EPP that the candidate should be recommended for a standard certificate. If either the field supervisor or cooperating teacher do not recommend that the candidate should be recommended for a standard certificate, the person who does not recommend the candidate must provide documentation supporting the lack of recommendation to the candidate and either the field supervisor or cooperating teacher.

(iv) An EPP may permit a full day clinical teaching assignment up to 5 full days fewer than the minimum and a half day clinical teaching assignment up to 10 half days fewer than the minimum if due to maternity leave, military leave, illness, or bereavement.

(B) Internship. An internship must be for a minimum of one full school year for the classroom teacher assignment or assignments that match the certification category or categories for which the candidate is prepared by the EPP.

(i) An EPP may permit an internship of up to 30 school days fewer than the minimum if due to maternity leave, military leave, illness, bereavement, or if the late hire date is after the first day of the school year.

(ii) The beginning date for an internship for the purpose of field supervision is the first day of instruction with students in the school or district in which the internship takes place.

(iii) An internship assignment shall not be less than an average of four hours each day in the subject area and grade level of

certification sought. The average includes intermissions and recesses but does not include conference and duty-free lunch periods. An EPP may permit an additional internship assignment of less than an average of four hours each day if:

(I) the primary assignment is not less than an average of four hours each day in the subject area and grade level of certification sought;

(II) the EPP is approved to offer preparation in the certification category required for the additional assignment;

(III) the EPP provides ongoing support for each assignment as prescribed in subsection (g) of this section;

(IV) the EPP provides coursework and training for each assignment to adequately prepare the candidate to be effective in the classroom; and

(V) the employing school or district notifies the candidate and the EPP in writing that an assignment of less than four hours will be required.

(iv) A candidate must hold an intern or probationary certificate while participating in an internship. A candidate must meet the requirements and conditions, including the subject matter knowledge requirement, prescribed in 230.36 of this title (relating to Intern Certificates) and §230.37 of this title (relating to Probationary Certificates) to be eligible for an intern or probationary certificate.

(v) An EPP may recommend an additional internship if:

(I) the EPP certifies that the first internship was not successful, the EPP has developed a plan to address any deficiencies identified by the candidate and the candidate's field supervisor, and the EPP implements the plan during the additional internship; or

(II) the EPP certifies that the first internship was successful and that the candidate is making satisfactory progress toward completing the EPP before the end of the additional internship.

(vi) An EPP must provide ongoing support to a candidate as described in subsection (g) of this section for the full term of the initial and any additional internship, unless, prior to the expiration of that term:

(I) a standard certificate is issued to the candidate during any additional internship under a probationary certificate;

(II) the candidate resigns, is non-renewed, or is terminated by the school or district [ : A candidate must provide the EPP the official notice of resignation or termination within seven calendar days after receipt of the notice from the employing school or district. Within seven calendar days after receipt of the official notice of resignation or termination, an EPP must notify a candidate in writing that the EPP will provide TEA with notice about the resignation or termination and that the intern or probationary certificate will be inactivated by the TEA 30 calendar days from the effective date of the resignation or termination. Within one business day after providing the notice to a candidate, an EPP must email the TEA a copy of the notice to the candidate and a copy of the official notice of the resignation or termination]; or

(III) the candidate is discharged or is released from the EPP [ : An EPP must notify a candidate in writing that the candidate is being discharged or released, that the EPP will provide the employing school or district with notice of the discharge or release, that the EPP will provide TEA with notice about the discharge or release, and that the intern or probationary certificate will be inactivated by the TEA 30 calendar days from the effective date of the discharge

or release. Within one business day after providing a candidate with notice of discharge or release, an EPP must provide written notification to the employing school or district of the withdrawal, discharge, or release. Within one business day of providing notice to the employing school or district, an EPP must email the TEA a copy of the notice of discharge or release and a copy of the notice to the employing school or district]; or

(IV) the candidate withdraws from the EPP [; A candidate must notify the EPP in writing that the candidate is withdrawing from the EPP. Within seven calendar days after receipt of the withdrawal notice, an EPP must notify a candidate in writing that the EPP will provide the employing school or district with notice of the withdrawal, that the EPP will provide TEA with notice about the withdrawal, and that the intern or probationary certificate will be inactivated by the TEA 30 calendar days from the effective date of the withdrawal. Within one business day after providing a candidate with notice of discharge or release, an EPP must provide written notification to the employing school or district of the withdrawal, discharge, or release. Within one business day of providing notice to the employing school or district, an EPP must email the TEA a copy of the notice of withdrawal and a copy of the notice to the employing school or district]; or

(V) the internship assignment does not meet the requirements described in this subparagraph. [Within seven calendar days of knowing that an internship assignment does not meet requirements, an EPP must notify a candidate in writing: that the internship assignment does not meet the requirements; that the EPP will provide the employing school or district with notice; that the EPP will provide the TEA with notice; and that the intern or probationary certificate will be inactivated by the TEA 30 calendar days from the effective date of the notice to the candidate was sent by the EPP. Within one business day after providing a candidate with notice, an EPP must provide written notification to the employing school or district that the internship assignment does not meet requirements and that the TEA will inactivate the certificate. Within one business day of providing notice to the employing school or district, an EPP must email the TEA a copy of the notice to the candidate and a copy of the notice to the employing school or district.]

(vii) If the candidate leaves the internship assignment for any of the reasons identified in clause (vi)(II)-(V) of this subparagraph:

(I) the EPP, the campus or district personnel, and the candidate must inform each other within one calendar week of the candidate's last day in the assignment; and

(II) TEA must receive the certificate deactivation request with all related documentation from the EPP within two calendar weeks of the candidate's last day of the assignment in a format determined by TEA.

(viii) The EPP must communicate the requirements in clause (vii) of this subparagraph to candidates and campus or district personnel prior to the assignment start date.

(ix) [(vii)] An internship is successful when the candidate demonstrates proficiency in each of the educator standards for the assignment and the field supervisor and campus supervisor recommend to the EPP that the candidate should be recommended for a standard certificate. If either the field supervisor or campus supervisor do not recommend that the candidate should be recommended for a standard certificate, the person who does not recommend the candidate must provide documentation supporting the lack of recommendation to the candidate and either the field supervisor or campus supervisor.

(x) [(viii)] An internship for a Trade and Industrial Workforce Training certificate may be at an accredited institution of higher education if the candidate teaches not less than an average of four hours each day, including intermissions and recesses, in a dual credit career and technical instructional setting as defined by Part 1, Chapter 4, Subchapter D of this title (relating to Dual Credit Partnerships Between Secondary Schools and Texas Public Colleges).

(3) An EPP may request an exception to the clinical teaching option described in this subsection.

(A) Submission of Exception Request. The request for an exception must include an alternate requirement that will adequately prepare candidates for educator certification and ensure the educator is effective in the classroom. The request for an exception must be submitted in a form developed by the TEA staff that shall include:

(i) the rationale and support for the alternate clinical teaching option;

(ii) a full description and methodology of the alternate clinical teaching option;

(iii) a description of the controls to maintain the delivery of equivalent, quality education; and

(iv) a description of the ongoing monitoring and evaluation process to ensure that EPP objectives are met.

(B) Review, Approval, and Revocation of Exception Request.

(i) Exception requests will be reviewed by TEA staff, and the TEA staff shall recommend to the State Board for Educator Certification (SBEC) whether the exception should be approved. The SBEC may:

(I) approve the request;

(II) approve the request with conditions;

(III) deny approval of the request; or

(IV) defer action on the request pending receipt of further information.

(ii) If the SBEC approves the request with conditions, the EPP must meet the conditions specified in the request. If the EPP does not meet the conditions, the approval is revoked.

(iii) If the SBEC approves the request, the EPP must submit a written report of outcomes resulting from the clinical teaching exception to the TEA by September 15 of each academic year. If the EPP does not timely submit the report, the approval is revoked.

(iv) If the SBEC does approve the exception or an approval is revoked, an EPP must wait at least six months from the date of the denial or revocation before submitting a new request.

(4) Candidates participating in an internship or a clinical teaching assignment need to experience a full range of professional responsibilities that shall include the start of the school year. The start of the school year is defined as the first 15 instructional days of the school year. If these experiences cannot be provided through clinical teaching or an internship, they must be provided through field-based experiences.

(5) An internship or clinical teaching experience for certificates that include early childhood may be completed at a Head Start Program with the following stipulations:

(A) a certified teacher is available as a trained mentor;



(B) the Head Start program is affiliated with the federal Head Start program and approved by the TEA;

(C) the Head Start program teaches three- and four-year-old students; and

(D) the state's prekindergarten curriculum guidelines are being implemented.

(6) An internship or clinical teaching experience must take place in an actual school setting rather than a distance learning lab or virtual school setting.

(7) An internship or clinical teaching experience shall not take place in a setting where the candidate:

(A) has an administrative role over the mentor or cooperating teacher; or

(B) is related to the field supervisor, mentor, or cooperating teacher by blood (consanguinity) within the third degree or by marriage (affinity) within the second degree.

(8) For certification in a class other than classroom teacher, each EPP shall provide a practicum for a minimum of 160 clock-hours whereby a candidate must demonstrate proficiency in each of the educator standards for the certificate class being sought.

(A) A practicum experience must take place in an actual school setting rather than a distance learning lab or virtual school setting.

(B) A practicum may not take place exclusively during a summer recess.

(C) ~~[(B)]~~ A practicum shall not take place in a setting where the candidate:

(i) has an administrative role over the site supervisor; or

(ii) is related to the field supervisor or site supervisor by blood (consanguinity) within the third degree or by marriage (affinity) within the second degree.

(D) ~~[(C)]~~ An intern or probationary certificate may be issued to a candidate for a certification class other than classroom teacher who meets the requirements and conditions, including the subject matter knowledge requirement, prescribed in §230.36 of this title ~~[(relating to Intern Certificates)]~~ and §230.37 of this title ~~[(relating to Probationary Certificates)]~~.

(i) A candidate for an intern or probationary certificate in a certification class other than classroom teacher must meet all requirements established by the recommending EPP, which shall be based on the qualifications and requirements for the class of certification sought and the duties to be performed by the holder of a probationary certificate in that class.

(ii) An EPP may recommend an additional practicum under a probationary certificate if:

(I) the EPP certifies that the first practicum was not successful, the EPP has developed a plan to address any deficiencies identified by the candidate and the candidate's field supervisor, and the EPP implements the plan during the additional practicum; or

(II) the EPP certifies that the first practicum was successful and that the candidate is making satisfactory progress toward completing the EPP before the end of the additional practicum.

(E) ~~[(D)]~~ A practicum is successful when the field supervisor and the site supervisor recommend to the EPP that the can-

didate should be recommended for a standard certificate. If either the field supervisor or site supervisor does not recommend that the candidate should be recommended for a standard certificate, the person who does not recommend the candidate must provide documentation supporting the lack of recommendation to the candidate and either the field supervisor or site supervisor.

(9) Subject to all the requirements of this section, the TEA may approve a school that is not a public school accredited by the TEA as a site for field-based experience, internship, clinical teaching, and/or practicum.

(A) All Department of Defense Education Activity (DoDEA) schools, wherever located, and all schools accredited by the Texas Private School Accreditation Commission (TEPSAC) are approved by the TEA for purposes of field-based experience, internship, clinical teaching, and/or practicum.

(B) An EPP may file an application, with the appropriate fee specified in §229.9(6) of this title (relating to Fees for Educator Preparation Program Approval and Accountability), with the TEA for approval, subject to periodic review, of a public school, a private school, or a school system located within any state or territory of the United States, as a site for field-based experience. The application shall be in a form developed by the TEA staff and shall include, at a minimum, evidence showing that the instructional standards of the school or school system align with those of the applicable Texas Essential Knowledge and Skills (TEKS) and SBEC certification standards.

(C) An EPP may file an application, with the appropriate fee specified in §229.9(6) of this title, with the TEA for approval, subject to periodic review, of a public or private school for a candidate's placement located within any state or territory of the United States, as a site for ~~[an internship,]~~ clinical teaching ~~[, and/or]~~ or practicum required by this chapter. ~~[The application shall be in a form developed by the TEA staff and shall include, at a minimum:]~~

(i) The clinical teaching or practicum site may be approved for a candidate who must complete requirements outside the state of Texas due to the following reasons if they occur following admission to the EPP:

(I) military assignment of candidate or spouse;

(II) illness of candidate or family member for whom the candidate is the primary caretaker;

(III) candidate becomes the primary caretaker for a family member residing out of state; or

(IV) candidate or spouse transfer of employment.

(ii) The application shall identify the circumstances that necessitate the request to complete clinical teaching or a practicum outside of the state of Texas and be in a form developed by the TEA staff and shall include, at a minimum:

(I) ~~[(i)]~~ the accreditation(s) held by the school;

(II) ~~[(ii)]~~ a crosswalk comparison of the alignment of the instructional standards of the school with those of the applicable TEKS and SBEC certification standards;

(III) ~~[(iii)]~~ the certification, credentials, and training of the field supervisor(s) who will supervise candidates in the school; and

(IV) ~~[(iv)]~~ the measures that will be taken by the EPP to ensure that the candidate's experience will be equivalent to that of a candidate in a Texas public school accredited by the TEA.

(D) An EPP may file an application, with the appropriate fee specified in §229.9(6) of this title, with the TEA for approval, subject to periodic review, of a public or private school for a candidate's placement located outside the United States, as a site for clinical teaching [; internship;] or a practicum required by this chapter. [The application shall be in a form developed by the TEA staff and shall include, at a minimum, the same elements required in subparagraph (C) of this paragraph for schools located within any state or territory of the United States, with the addition of a description of the on-site program personnel and program support that will be provided and a description of the school's recognition by the U.S. State Department Office of Overseas Schools.]

(i) The site may be approved for a candidate who must complete requirements outside the United States due to the following reasons if they occur following admission to the EPP:

(I) military assignment of candidate or spouse;

(II) illness of candidate or family member for whom the candidate is the primary caretaker;

(III) candidate becomes the primary caretaker for a family member residing out of country; or

(IV) candidate or spouse transfer of employment.

(ii) The application shall identify the circumstances that necessitate the request to complete clinical teaching or a practicum outside of the United States and be in a form developed by the TEA staff and shall include, at a minimum, the same provisions required in subparagraph (C)(ii) of this paragraph for schools located within any state or territory of the United States, with the addition of a description of the on-site program personnel and program support that will be provided and a description of the school's recognition by the U.S. State Department Office of Overseas Schools.

(f) Mentors, cooperating teachers, and site supervisors. In order to support a new educator and to increase educator retention, an EPP shall collaborate with the campus or district administrator to assign each candidate a mentor during the candidate's internship, assign a cooperating teacher during the candidate's clinical teaching experience, or assign a site supervisor during the candidate's practicum. If an individual who meets the certification category and/or experience criteria for a cooperating teacher, mentor, or site supervisor is not available, the EPP and campus or district administrator shall assign an individual who most closely meets the criteria and document the reason for selecting an individual that does not meet the criteria. The EPP is responsible for providing mentor, cooperating teacher, and/or site supervisor training that relies on scientifically-based research, but the program may allow the training to be provided by a school, district, or regional education service center if properly documented.

(g) Ongoing educator preparation program support for initial certification of teachers. Supervision of each candidate shall be conducted with the structured guidance and regular ongoing support of an experienced educator who has been trained as a field supervisor. Supervision provided on or after September 1, 2017, must be provided by a field supervisor who has completed TEA-approved observation training. The initial contact, which may be made by telephone, email, or other electronic communication, with the assigned candidate must occur within the first three weeks of assignment. For each formal observation, the field supervisor shall participate in an individualized pre-observation conference with the candidate, document educational practices observed; provide written feedback through an individualized, synchronous, and interactive post-observation conference with the candidate; and provide a copy of the written feedback to the candidate's cooperating teacher or mentor. Neither the pre-observation conference

nor the post-observation conference need to be onsite. For candidates participating in an internship, the field supervisor shall provide a copy of the written feedback to the candidate's supervising campus administrator. Formal observations by the field supervisor conducted through collaboration with school or district personnel can be used to meet the requirements of this subsection. Informal observations and coaching shall be provided by the field supervisor as appropriate. In a clinical teaching experience, the field supervisor shall collaborate with the candidate and cooperating teacher throughout the clinical teaching experience. For an internship, the field supervisor shall collaborate with the candidate, mentor, and supervising campus administrator throughout the internship.

(1) Each formal observation must be at least 45 minutes in duration, must be conducted by the field supervisor, and must be on the candidate's site in a face-to-face setting.

(2) An EPP must provide the first formal observation within the first third of all clinical teaching assignments and the first six weeks of all internship assignments.

(3) For an internship under an intern certificate or an additional internship described in subsection (e)(2)(B)(v)(I) of this section, an EPP must provide a minimum of three formal observations during the first half of the internship and a minimum of two formal observations during the last half of the internship.

(4) For a first-year internship under a probationary certificate or an additional internship described in subsection (e)(2)(B)(v)(II) of this section, an EPP must provide a minimum of one formal observation during the first third of the assignment, a minimum of one formal observation during the second third of the assignment, and a minimum of one formal observation during the last third of the assignment.

(5) If an internship under an intern certificate or an additional internship described in subsection (e)(2)(B)(v)(I) of this section involves certification in more than one certification category that cannot be taught concurrently during the same period of the school day, an EPP must provide a minimum of three observations in each assignment. For each assignment, the EPP must provide at least two formal observations during the first half of the internship and one formal observation during the second half of the internship.

(6) For a first-year internship under a probationary certificate or an additional internship described in subsection (e)(2)(B)(v)(II) of this section that involves certification in more than one certification category that cannot be taught concurrently during the same period of the school day, an EPP must provide a minimum of one formal observation in each of the assignments during the first half of the assignment and a minimum of one formal observation in each assignment during the second half of the assignment.

(7) For a 14-week, full-day clinical teaching assignment, an EPP must provide a minimum of one formal observation during the first third of the assignment, a minimum of one formal observation during the second third of the assignment, and a minimum of one formal observation during the last third of the assignment. For an all-level clinical teaching assignment in more than one location or in an assignment that involves certification in more than one certification category that cannot be taught concurrently during the same period of the school day, a minimum of two formal observations must be provided during the first half of the assignment and a minimum of one formal observation must be provided during the second half of the assignment.

(8) For a 28-week, half-day clinical teaching assignment or a full-day clinical teaching assignment that exceeds 14 weeks and extends beyond one semester, an EPP must provide a minimum of two

formal observations during the first half of the assignment and a minimum of two formal observations during the last half of the assignment.

(h) Ongoing educator preparation program support for certification in a certification class other than classroom teacher. Supervision of each candidate shall be conducted with the structured guidance and regular ongoing support of an experienced educator who has been trained as a field supervisor. Supervision provided on or after September 1, 2017, must be provided by a field supervisor who has completed TEA-approved observation training. The initial contact, which may be made by telephone, email, or other electronic communication, with the assigned candidate must occur within the first quarter of the assignment. For each formal observation, the field supervisor shall participate in an individualized pre-observation conference with the candidate; document educational practices observed; provide written feedback through an individualized, synchronous, and interactive post-observation conference with the candidate; and provide a copy of the written feedback to the candidate's site supervisor. Neither the pre-observation conference nor the post-observation conference need to be onsite. Formal observations conducted through collaboration with school or district personnel can be used to meet the requirements of this subsection. Informal observations and coaching shall be provided by the field supervisor as appropriate. The field supervisor shall collaborate with the candidate and site supervisor throughout the practicum experience.

(1) An EPP must provide a minimum of one formal observation within the first third of the practicum, one formal observation within the second third of the practicum, and one formal observation within the final third of the practicum.

(2) [(4)] The three required formal [Formal] observations must be at least 135 minutes in duration in total throughout the practicum and must be conducted by the field supervisor.

(3) [(2)] If a formal observation is not conducted on the candidate's site in a face-to-face setting, the formal observation may be provided by use of electronic transmission or other video or technology-based method. A formal observation that is not conducted on the candidates' site in a face-to-face setting must include a pre- and post-conference.

~~[(3) Regardless of the type of certificate held by a candidate during a practicum, an EPP must provide a minimum of one formal observation within the first third of the practicum, one formal observation within the second third of the practicum, and one formal observation within the final third of the practicum.]~~

(i) Coursework and/or training for candidates seeking Early Childhood: Prekindergarten-Grade 3 certification.

(1) In support of the educator standards that are the curricular basis of the Early Childhood: Prekindergarten-Grade 3 certificate, an EPP shall integrate the following concepts and themes throughout the coursework and training:

(A) using planning and teaching practices that support student learning in early childhood, including:

(i) demonstrating knowledge and skills to support child development (birth-age eight) in the following areas:

- (I) brain development;
- (II) physical development;
- (III) social-emotional learning; and
- (IV) cultural development;

(ii) demonstrating knowledge and skills of effective, research supported, developmentally appropriate instructional

approaches to support young students' learning, including, but not limited to:

- (I) intentional instruction with clear learning goals;
- (II) project-based learning;
- (III) child-directed inquiry;
- (IV) learning through play; and
- (V) integration of knowledge across content areas;

(iii) demonstrating knowledge and skills in implementing instruction tailored to the variability in learners' needs, including, but not limited to, small group instruction;

(iv) demonstrating knowledge and skills in early literacy development and pedagogy, including:

(I) demonstrating effective ways to support language development, particularly oral language development, including, but not limited to, growth in academic vocabulary, comprehension, and inferencing abilities; and

(II) demonstrating effective ways to support early literacy development, including letter knowledge, phonological awareness, early writing, and decoding;

(v) demonstrating knowledge and skills in early mathematics and science development and pedagogy;

(vi) demonstrating knowledge and skills in developing and implementing pedagogical approaches for students who are English learners and/or bilingual; and

(vii) demonstrating knowledge and skills in developing and implementing pedagogical approaches for students who have or are at risk for developmental delays and disabilities;

(B) assessing the success of instruction and student learning through developmentally appropriate assessment, including:

(i) demonstrating knowledge of multiple forms of assessment, the information that each form of assessment can provide about a student's learning and development, and how to conceive, construct, and/or select an assessment aligned to standards that can demonstrate student learning to stakeholders;

(ii) demonstrating knowledge in how to use assessments to inform instruction to support student growth; and

(iii) demonstrating knowledge and application of children's developmental continuum in the analysis of assessment results utilizing a variety of assessment types to gain a full understanding of students' current development and assets;

(C) creating developmentally appropriate learning environments, including:

(i) demonstrating knowledge and skills in supporting learners' development of self-regulation and executive function (e.g., behavior, attention, goal setting, cooperation);

(ii) demonstrating knowledge and skills in designing, organizing, and facilitating spaces for learning, particularly small group learning, in both indoor and outdoor contexts; and

(iii) demonstrating knowledge and skills in developing learning environments that support English learners' development, including structures to support language development and communication;

(D) working with families, students, and the community through:

- (i) teacher agency and teacher leadership;
- (ii) research-based family engagement practices;
- (iii) understanding the capabilities of students through parent and community input; and
- (iv) the development and modeling of responsive relationships with children; and

(E) using a diversity and equity framework, such as:

- (i) demonstrating knowledge and skills in creating early learning communities that capitalize on the cultural knowledge and strengths children bring to the classroom;
- (ii) demonstrating knowledge and skills in creating an early learning environment that reflects the communities in which they work; and
- (iii) demonstrating knowledge and skills in how to access the knowledge children and families bring to school.

(2) An EPP shall provide each candidate who holds a valid standard, provisional, or one-year classroom teacher certificate specified in §230.31 of this title (relating to Types of Certificates) in a certificate category that allows the applicant to teach all subjects in Prekindergarten, Kindergarten, Grade 1, Grade 2, or Grade 3 with a minimum of 150 clock-hours of coursework and/or training that is directly aligned to the educator standards as specified in Chapter 235, Subchapter B, [Division 1-] of this title (relating to Elementary School Certificate Standards [Early Childhood: Prekindergarten-Grade 3]) and that is based on the concepts and themes specified in subsection (i)(1) of this section. A clinical teaching, internship, or practicum assignment is not required for completion of program requirements.

(3) An EPP shall provide each candidate who holds a valid standard, provisional, or one year classroom teacher certificate specified in §230.31 of this title [(relating to Professional Educator Preparation and Certification)] in a certificate category that does not allow the candidate to teach all subjects in Prekindergarten, Kindergarten, Grade 1, Grade 2, or Grade 3 coursework and/or training as specified in subsections (a) and (b) of this section that is directly aligned to the educator standards as specified in Chapter 235, Subchapter B, [Division 1-] of this title [(relating to Early Childhood: Prekindergarten-Grade 3)] and that is based on the concepts and themes specified in subsection (i)(1) of this section, a clinical experience as specified in subsection (e)(2) of this section, a mentor or cooperating teacher as specified in subsection (f) of this section, and ongoing support as specified in subsection (g) of this section.

(j) Coursework and/or training for candidates seeking a Teacher of Students with Visual Impairments (TVI) Supplemental: Early Childhood-Grade 12 certification.

(1) An EPP must provide a minimum of 300 hours of coursework and/or training related to the educator standards for that certificate adopted by the SBEC.

(2) An EPP shall provide a clinical experience of at least 350 clock-hours in a supervised educator assignment in a public school accredited by the TEA or other school approved by the TEA for this purpose. A TVI certification candidate must demonstrate proficiency in each of the educator standards for the certificate being sought during the clinical experience. A clinical experience is successful when the field supervisor recommends to the EPP that the TVI certification candidate should be recommended for a TVI supplemental certification.

(A) An EPP will provide guidance, assistance, and support for the TVI certification candidate by assigning a cooperating teacher and/or providing individual or group consultation. The EPP is responsible for providing training to cooperating teachers and/or consultation providers.

(B) An EPP will collaborate with the program coordinator for the Texas School for the Blind and Visually Impaired Statewide Mentor Program to assign a TVI mentor for the TVI certification candidate. The Texas School for the Blind and Visually Impaired Statewide Mentor Program is responsible for providing training for all TVI mentors.

(C) An EPP 19. EDUCATION will provide ongoing support for the TVI certification candidate. Supervision of each candidate shall be conducted with the structured guidance and regular ongoing support of an experienced educator who has been trained as a field supervisor. Supervision must be provided by a field supervisor who has completed TEA-approved observation training. The initial contact, which may be made by telephone, email, or other electronic communication, with the assigned candidate must occur within the first quarter of the assignment. For each formal observation, the field supervisor shall participate in an individualized pre-observation conference with the candidate; document educational practices observed; and provide written feedback through an individualized, synchronous, and interactive post-observation conference with the candidate. Neither the pre-observation conference nor the post-observation conference need to be onsite. Formal observations conducted through collaboration with school or district personnel can be used to meet the requirements of this subsection. Informal observations and coaching shall be provided by the field supervisor as appropriate.

(i) Formal observations must be at least 135 minutes in duration in total throughout the clinical experience and must be conducted by the field supervisor.

(ii) If a formal observation is not conducted on the candidate's site in a face-to-face setting, the formal observation may be provided by use of electronic transmission or other video or technology-based method. A formal observation that is not conducted on the candidates' site in a face-to-face setting must include a pre- and post-conference.

(iii) An EPP must provide a minimum of one formal observation within the first third of the clinical experience, one formal observation within the second third of the clinical experience, and one formal observation within the final third of the clinical experience.

(k) Candidates employed as certified educational aides.

(1) Clinical Teaching Assignment. Candidates employed as certified educational aides may satisfy their clinical teaching assignment requirements through their instructional duties.

(A) If an EPP permits candidates employed as certified educational aides, as defined by Chapter 230, Subchapter E, of this title (relating to Educational Aide Certificate), to satisfy the clinical teaching assignment requirements through their instructional duties, the clinical teaching assignment must be for a minimum of 490 hours (14-week equivalent).

(B) An EPP may permit an educational aide employed in a clinical teaching to be excused from up to 35 of the required hours due to maternity leave, military leave, or illness.

(C) Clinical teaching is successful when the candidate demonstrates proficiency in each of the educator standards for the assignment and the field supervisor and cooperating teacher recommend to the EPP that the candidate should be recommended for a standard

certificate. If either the field supervisor or cooperating teacher do not recommend that the candidate should be recommended for a standard certificate, the person who does not recommend the candidate must provide documentation supporting the lack of recommendation to the candidate and either the field supervisor or cooperating teacher.

(2) Coursework and Training. An EPP must provide coursework and/or training as specified in subsections (a) and (b) of this section, a clinical experience as specified in subsection (e) of this section, a cooperating teacher as specified in subsection (f) of this section, and ongoing support as specified in subsection (g) of this section. An EPP must provide a minimum of one formal observation during the first third of the assignment, a minimum of one formal observation during the second third of the assignment, and a minimum of one formal observation during the last third of the assignment.

(I) Exemptions.

(1) Under the TEC, §21.050(c), a candidate who receives a bachelor's degree required for a teaching certificate on the basis of higher education coursework completed while receiving an exemption from tuition and fees under the TEC, §54.363, is exempt from the requirements of this chapter relating to field-based experience, internship, or clinical teaching.

(2) Under the TEC, §21.0487(c)(2)(B), a candidate's employment by a school or district as a Junior Reserve Officer Training Corps instructor before the person was enrolled in an EPP or while the person is enrolled in an EPP is exempt from any clinical teaching, internship, or field-based experience program requirement.

*§228.40. Assessment and Evaluation of Candidates for Certification and Program Improvement.*

(a) To ensure that a candidate for educator certification is prepared to receive a standard certificate, the educator preparation program (EPP) shall establish benchmarks and structured assessments of the candidate's progress throughout the EPP.

(b) An EPP is responsible for ensuring that each candidate is adequately prepared to pass the appropriate content pedagogy examination(s) required for certification, unless that content pedagogy test is used for admission purposes.

(c) Upon the written request of the candidate, an EPP may prepare a candidate and grant test approval for a classroom teacher certificate category other than the category for which the candidate was initially admitted to the EPP.

(d) An EPP shall determine the readiness of each candidate to take the appropriate certification examination of content, pedagogy, and professional responsibilities, including professional ethics and standards of conduct. An EPP shall not grant test approval for a certification examination until a candidate has met all of the requirements for admission to the EPP and has been contingently or formally admitted into the EPP. An EPP may make test approval contingent on a candidate completing additional coursework and/or training to show that the candidate is prepared to pass the test if the candidate is seeking test approval from the EPP in an area where the standards and/or test changed since the candidate completed the EPP or if the candidate has returned to the EPP for test approval five or more years following the academic year of completion.

(e) For the purposes of EPP improvement, an entity shall continuously evaluate the design and delivery of the EPP components based on performance data, scientifically-based research practices, and the results of internal and external feedback and assessments.

(f) An EPP shall retain documents that evidence a candidate's eligibility for admission to the program and evidence of completion of

all program requirements for a period of five years after a candidate completes, withdraws from, or is discharged or released from the program.

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 18, 2020.

TRD-202001950

Cristina De La Fuente-Valadez

Director, Rulemaking

State Board for Educator Certification

Earliest possible date of adoption: June 28, 2020

For further information, please call: (512) 475-1475



## CHAPTER 230. PROFESSIONAL EDUCATOR PREPARATION AND CERTIFICATION SUBCHAPTER C. ASSESSMENT OF EDUCATORS

### 19 TAC §230.21

The State Board for Educator Certification (SBEC) proposes an amendment to §230.21, concerning educator assessment. The proposed amendment would implement the statutory requirements in House Bill (HB) 3, 86th Texas Legislature, 2019, that require that all educators who teach any grade level from Prekindergarten-Grade 6 demonstrate proficiency in the science of teaching reading on a certification examination beginning January 1, 2021. The proposed amendment would update the examination figure in 19 Texas Administrative Code (TAC) §230.21(e) to specify the required examination(s) for issuance of the replacement certificates that reflect the science of teaching reading requirement. The proposed amendment would also provide clarification on relevant implementation dates for specific certification examinations.

**BACKGROUND INFORMATION AND JUSTIFICATION:** The SBEC rules in 19 TAC Chapter 230 specify the testing requirements for certification and the additional certificates based on examination. These requirements ensure educators are qualified and professionally prepared to instruct the schoolchildren of Texas. The following provides a description of changes to Chapter 230, Subchapter C, §230.21.

HB 3, 86th Texas Legislature, 2019, requires that all educators who teach any grade level from Prekindergarten-Grade 6 demonstrate proficiency in the science of teaching reading on a certification examination beginning January 1, 2021. The replacement certificates that incorporate this requirement are reflected in the proposed changes to Chapter 233 published in the Proposed Rules section of this issue. To comply with the enabling legislation, the appropriate examination(s) required for each of the replacement certificates must be reflected in the testing figure in §230.21(e). Additionally, the current examinations that will change due to the addition of the new science of teaching reading examination requirements must also be updated to reflect the changes.

#### *Subchapter C, §230.21. Assessment of Educators.*

The proposed amendment to §230.21(e) would update the figure to include the four replacement certificates proposed in Chapter

233 and the associated certification examinations requirements along with the corresponding operational dates of those examinations. The current and replacement certificates with the corresponding content pedagogy examinations are:

Figure: 19 TAC Chapter 230 - Preamble

The content pedagogy examination, 391 Core Subjects: Early Childhood-Grade 6, reflected in the table, would be developed to remove duplicative English Language Arts content that is now reflected in 293 Science of Teaching Reading. Due to the administration structure of the 291 Core Subjects: Early Childhood-Grade 6 exam, candidates may retake specific subject sections of the examination in order to earn the overall passing score. To accommodate the transition between the two examinations, the proposed figure would include a one-year transition period during which both examinations would be operational.

A technical edit to the Educational Diagnostician: Early Childhood-Grade 12 content pedagogy examination would be updated to reflect the correct test number from 251 to 253 to align with test number conventions.

The content pedagogy examination, 217 English Language Arts and Reading: Grades 4-8, reflected in the table, would be developed and would replace 117 English Language Arts and Reading: Grades 4-8. Updates to the English Language Arts and Reading Texas Essential Knowledge and Skills (TEKS) provided an opportunity to update the content pedagogy examination. To signal the transition between the two examinations, the proposed figure provides the last operational date of the current 117 and the operational start date for the new 217.

The replacement certificates, as proposed in Chapter 233, would provide clarity on the certification examination requirements and would reflect the science of teaching reading knowledge and skills that teachers with the replacement certificates would demonstrate prior to issuance.

In addition to the proposed amendment related to HB 3, the proposed figure in §230.21(e) would phase out the retired 183 Braille TExES examination for the §233.8 Teacher of Students with Visual Impairments Supplemental: Early Childhood-Grade 12 certificate.

**FISCAL IMPACT:** Ryan Franklin, associate commissioner for educator leadership and quality, has determined that there is an anticipated fiscal impact on state government (TEA) required to comply with the proposal. The TEA estimates a cost of \$128,909 for each of the next five fiscal years (FYs) from FYs 2021-2025 for the development and ongoing administrative costs needed to maintain assessments. The TEA will receive an \$11 remittance for each Science of Teaching Reading test taken associated with the Core Subjects with Science of Teaching Reading: Early Childhood-Grade 6, Core Subjects with Science of Teaching Reading: Grades 4-8, English Language Arts and Reading with Science of Teaching Reading: Grades 4-8 and English Language Arts and Reading/Social Studies with Science of Teaching Reading: Grades 4-8 certification fields for an estimated total of \$212,754 for FY 2021 and \$322,355 for FYs 2022-2025. Based on 2018-2019 testing data, TEA estimates 19,341 examinations taken in FY 2021 and 29,305 Science of Teaching Reading examinations taken per annual year starting FY 2022. There is no additional fiscal impact on local governments or entities required to comply with the proposal.

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

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

**COST INCREASE TO REGULATED PERSONS:** The proposal does impose a cost on regulated persons, another state agency, a special district, or a local government, and, therefore, is subject to TGC, §2001.0045. However, the proposal is exempt from TGC, §2001.0045, as provided under that statute, because the proposal is necessary to implement legislation. In addition, the proposal is necessary to ensure certified Texas educators are competent to educate Texas students and, therefore, necessary to protect the safety and welfare of the residents of this state.

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

**GOVERNMENT GROWTH IMPACT:** The TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would require an increase in fees paid to the agency for each Science of Teaching Reading assessment taken (\$11 per assessment), but those fees would be offset by the increased costs to the agency of developing and administering the new test. The development and administration of the Science of Teaching Reading assessment is required by HB 3, 86th Texas Legislature, 2019.

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

**PUBLIC BENEFIT AND COST TO PERSONS:** The public benefit anticipated as a result of the proposal would be the increased teacher knowledge and skills in science-based reading instruction, leading to the anticipated growth in student reading performance. The TEA staff determined there is an economic cost to persons required to comply with this proposal. Future teacher candidates seeking certification in Core Subjects with Science of Teaching Reading: Early Childhood-Grade 6, Core Subjects with Science of Teaching Reading: Grades 4-8, English Language Arts and Reading with Science of Teaching Reading: Grades 4-8, and English Language Arts and Reading/Social Studies with Science of Teaching Reading: Grades 4-8 will be required to take the Science of Teaching Reading assessment. Based on 2018-2019 data, TEA staff anticipates this will impact about 19,341 test attempts in FY 2021 with the cost of each test being \$136 for a total of \$2,630,427 and about 29,305 test attempts in FYs 2022-2025 for a total of \$4,029,200 per year. Future teacher candidates for English Language Arts and Reading: Grades 4-8 will be required to take a certification assessment that has both selected-response and constructed-response questions. Based on the 2018-2019 data, TEA staff anticipates this impact to be about 2,186 test attempts with the cost of each test increasing from \$116 to \$136 for a total of \$43,720 starting FY 2022.

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

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

PUBLIC COMMENTS: The public comment period on the proposal begins May 29, 2020 and ends June 29, 2020. A form for submitting public comments is available on the TEA website at [https://tea.texas.gov/About\\_TEA/Laws\\_and\\_Rules/SBEC\\_Rules\\_\(TAC\)/Proposed\\_State\\_Board\\_for\\_Educator\\_Certification\\_Rules/](https://tea.texas.gov/About_TEA/Laws_and_Rules/SBEC_Rules_(TAC)/Proposed_State_Board_for_Educator_Certification_Rules/). The SBEC will take registered oral and written comments on the proposal at the July 24, 2020 meeting in accordance with the SBEC board operating policies and procedures. All requests for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the Department of Educator Leadership and Quality, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701, Attention: Mr. Ryan Franklin, associate commissioner for educator leadership and quality, not more than 14 calendar days after notice of the proposal has been published in the *Texas Register* on May 29, 2020.

STATUTORY AUTHORITY. The amendment is proposed under Texas Education Code (TEC), §21.041(b)(1), (2), and (4), which require the State Board for Educator Certification (SBEC) to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; which specify the classes of educator certificates to be issued, including emergency certificates; and which specify the requirements for the issuance and renewal of an educator certificate; TEC, §21.044(a), as amended by Senate Bills 7, 1839, and 1963, 85th Texas Legislature, Regular Session, 2017, which requires the SBEC to propose rules establishing training requirements a person must accomplish to obtain a certificate, enter an internship, or enter an induction-year program; TEC, §21.048, as amended by House Bill (HB) 3, 86th Texas Legislature, 2019, which states the SBEC shall propose rules prescribing comprehensive examinations for each class of certificate issued by the board that includes not requiring more than 45 days elapsing between examination retakes and that starting January 1, 2021, all candidates teaching prekindergarten through grade six must demonstrate proficiency in the science of teaching reading on a certification examination; TEC, §21.050(a), which states a person who applies for a teaching certificate must possess a bachelor's degree; TEC, §21.050(b), as amended by HB 3217, 86th Texas Legislature, 2019, which states the SBEC shall provide for a minimum number of semester credit hours of field-based experience or internship; TEC, §21.050(c), which states a person who receives a bachelor's degree required for a teaching certificate on the basis of higher education coursework completed while receiving an exemption from tuition and fees under the TEC, §54.363, may not be required to participate in any field experience or internship consisting of student teaching to receive a teaching certificate; TEC, §22.082, which requires SBEC to subscribe to the criminal history clearinghouse as provided by Texas Government Code, §411.0845, and may obtain any law enforcement or criminal history records that relate to a specific applicant for or holder of a certificate issued under Chapter 21, Subchapter B; and Texas Occupations Code, §54.003, which states a licensing authority shall provide accommodations and eligibility criteria for examinees diagnosed as having dyslexia.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code (TEC), §§21.041(b)(1), (2), and (4); 21.044(a), as amended by Senate Bills 7, 1839, and 1963, 85th Texas Legislature, Regular Session, 2017; 21.048, as amended by House Bill (HB) 3, 86th Texas Legislature, 2019; 21.050, as amended by HB 3217, 86th Texas Legislature, 2019; 22.082; and Texas Occupations Code, §54.003.

*§230.21. Educator Assessment.*

(a) A candidate seeking certification as an educator must pass the examination(s) required by the Texas Education Code (TEC), §21.048, and the State Board for Educator Certification (SBEC) in §233.1(e) of this title (relating to General Authority) and shall not retake an examination more than four times, unless the limitation is waived for good cause. The burden of proof shall be upon the candidate to demonstrate good cause.

(1) For the purposes of the retake limitation described by the TEC, §21.048, an examination retake is defined as a second or subsequent attempt to pass any examination required for the issuance of a certificate, including an individual core subject examination that is part of the overall examination required for the issuance of a Core Subjects certificate as described in §233.2 of this title (relating to Early Childhood; Core Subjects).

(A) A canceled examination score is not considered an examination retake.

(B) An examination taken by an educator during a pilot period is not considered part of an educator's five-time test attempt limit.

(C) Pursuant to TEC, §21.0491(d), the limit on number of test attempts does not apply to the trade and industrial workforce training certificate examination prescribed by the SBEC.

(D) A candidate who fails a computer- or paper-based examination cannot retake the examination before 30 days have elapsed following the candidate's last attempt to pass the examination.

(2) Good cause is:

(A) the candidate's highest score on an examination is within one conditional standard error of measurement (CSEM) of passing, and the candidate has completed 50 clock-hours of educational activities. CSEMs will be published annually on the Texas Education Agency (TEA) website;

(B) the candidate's highest score on an examination is within two CSEMs of passing, and the candidate has completed 100 clock-hours of educational activities;

(C) the candidate's highest score on an examination is within three CSEMs of passing, and the candidate has completed 150 clock-hours of educational activities;

(D) the candidate's highest score on an examination is not within three CSEMs of passing, and the candidate has completed 200 clock-hours of educational activities;

(E) if the candidate needs a waiver for more than one of the individual core subject examinations that are part of the overall examination required for the issuance of a Core Subjects certificate, the candidate has completed the number of clock-hours of educational activities required for each individual core subject examination as described in subparagraphs (A)-(D) of this paragraph up to a maximum of 300 clock-hours. The number of clock-hours for each examination may be divided equally based on the number of examinations in the waiver request, but the number of clock-hours for an examination shall not be less than 50; or

(F) if a CSEM is not appropriate for an examination, the TEA staff will identify individuals who are familiar and knowledgeable with the examination content to review the candidate's performance on the five most recent examinations, identify the deficit competency or competencies, and determine the number of clock-hours of educational activities required.

(3) Educational activities are defined as:

(A) institutes, workshops, seminars, conferences, interactive distance learning, video conferencing, online activities, undergraduate courses, graduate courses, training programs, in-service, or staff development given by an approved continuing professional education provider or sponsor, pursuant to §232.17 of this title (relating to Pre-Approved Professional Education Provider or Sponsor) and §232.19 of this title (relating to Approval of Private Companies, Private Entities, and Individuals), or an approved educator preparation program (EPP), pursuant to §228.10 of this title (relating to Approval Process); and

(B) being directly related to the knowledge and skills included in the certification examination competency or competencies in which the candidate answered less than 70 percent of competency questions correctly. The formula for identifying a deficit competency is the combined total of correct answers for each competency on the five most recent examinations divided by the combined total of questions for each competency on the five most recent examinations.

(4) Documentation of educational activities that a candidate must submit includes:

(A) the provider, sponsor, or program's name, address, telephone number, and email address. The TEA staff may contact the provider, sponsor, or program to verify an educational activity;

(B) the name of the educational activity (e.g., course title, course number);

(C) the competency or competencies addressed by the educational activity as determined by the formula described in paragraph (3)(B) of this subsection;

(D) the provider, sponsor, or program's description of the educational activity (e.g., syllabus, course outline, program of study); and

(E) the provider, sponsor, or program's written verification of the candidate's completion of the educational activity (e.g., transcript, certificate of completion). The written verification must include:

(i) the provider, sponsor, or program's name;

(ii) the candidate's name;

(iii) the name of the educational activity;

(iv) the date(s) of the educational activity; and

(v) the number of clock-hours completed for the educational activity. Clock-hours completed before the most recent examination attempt or after a request for a waiver is submitted shall not be included. One semester credit hour earned at an accredited institution of higher education is equivalent to 15 clock-hours.

(5) To request a waiver of the limitation, a candidate must meet the following conditions:

(A) the candidate is otherwise eligible to take an examination. A candidate seeking a certificate based on completion of an EPP must have the approval of an EPP to request a waiver;

(B) beginning September 1, 2016, the candidate pays the non-refundable waiver request fee of \$160;

(C) the candidate requests the waiver of the limitation in writing on forms developed by the TEA staff; and

(D) the request for the waiver is postmarked not earlier than:

(i) 45 calendar days after an unsuccessful attempt at the fourth retake of an examination as defined in the TEC, §21.048; or

(ii) 90 calendar days after the date of the most recent denied waiver of the limitation request; or

(iii) 180 calendar days after the date of the most recent unsuccessful examination attempt that was the result of the most recently approved request for waiver of the limitation.

(6) The TEA staff shall administratively approve each application that meets the criteria specified in paragraphs (2)-(5) of this subsection.

(7) An applicant who does not meet the criteria in paragraphs (2)-(5) of this subsection may appeal to the SBEC for a final determination of good cause. A determination by the SBEC is final and may not be appealed.

(b) A candidate seeking a standard certificate as an educator based on completion of an approved EPP may take the appropriate certification examination(s) required by subsection (a) of this section only at such time as the EPP determines the candidate's readiness to take the examinations, or upon successful completion of the EPP, whichever comes first.

(c) The holder of a lifetime Texas certificate effective before February 1, 1986, must pass examinations prescribed by the SBEC to be eligible for continued certification, unless the individual has passed the Texas Examination of Current Administrators and Teachers (TECAT).

(d) The commissioner of education approves the satisfactory level of performance required for certification examinations, and the SBEC approves a schedule of examination fees and a plan for administering the examinations.

(e) The appropriate examination(s) required for certification are specified in the figure provided in this subsection.

Figure: 19 TAC §230.21(e)

[Figure: 19 TAC §230.21(e)]

(f) Scores from examinations required under this title must be made available to the examinee, the TEA staff, and, if appropriate, the EPP from which the examinee will seek a recommendation for certification.

(g) The following provisions concern ethical obligations relating to examinations.

(1) An educator or candidate who participates in the development, design, construction, review, field testing, scoring, or validation of an examination shall not reveal or cause to be revealed the contents of the examination to any other person.

(2) An educator or candidate who administers an examination shall not:

(A) allow or cause an unauthorized person to view any part of the examination;

(B) copy, reproduce, or cause to be copied or reproduced any part of the examination;



(C) reveal or cause to be revealed the contents of the examination;

(D) correct, alter, or cause to be corrected or altered any response to a test item contained in the examination;

(E) provide assistance with any response to a test item contained in the examination or cause assistance to be provided; or

(F) deviate from the rules governing administration of the examination.

(3) An educator or candidate who is an examinee shall not:

(A) copy, reproduce, or cause to be copied or reproduced any test item contained in the examination;

(B) provide assistance with any response to a test item contained in the examination, or cause assistance to be provided;

(C) solicit or accept assistance with any response to a test item contained in the examination;

(D) deviate from the rules governing administration of the examination; or

(E) otherwise engage in conduct that amounts to cheating, deception, or fraud.

(4) An educator, candidate, or other test taker shall not:

(A) solicit information about the contents of test items on an examination that the educator, candidate, or other test taker has not already taken from an individual who has had access to those items, or offer information about the contents of specific test items on an examination to individuals who have not yet taken the examination;

(B) fail to pay all test costs and fees as required by this chapter or the testing vendor; or

(C) otherwise engage in conduct that amounts to violations of test security or confidentiality integrity, including cheating, deception, or fraud.

(5) A person who violates this subsection is subject to:

(A) sanction, including, but not limited to, disallowance and exclusion from future examinations either in perpetuity or for a period of time that serves the best interests of the education profession, in accordance with the provisions of the TEC, §21.041(b)(7), and Chapter 249 of this title (relating to Disciplinary Proceedings, Sanctions, and Contested Cases); and/or

(B) denial of certification in accordance with the provisions of the TEC, §21.041(b)(7), and Chapter 249 of this title; and/or

(C) voiding of a score from an examination in which a violation specified in this subsection occurred as well as a loss of a test attempt for purposes of the retake limit in subsection (a) of this section.

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

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Cristina De La Fuente-Valadez

Director, Rulemaking

State Board for Educator Certification

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For further information, please call: (512) 475-1475

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## CHAPTER 233. CATEGORIES OF CLASSROOM TEACHING CERTIFICATES

### 19 TAC §§233.1 - 233.3

The State Board for Educator Certification (SBEC) proposes amendments to §§233.1, 233.2, and 233.3, concerning categories of classroom teaching certificates. The proposed amendments would implement the statutory requirements in House Bill (HB) 3, 86th Texas Legislature, 2019, that requires that all educators who teach any grade level from Prekindergarten-Grade 6 demonstrate proficiency in the science of teaching reading on a certification examination beginning January 1, 2021. The proposed amendments would create four replacement certificates with corresponding requirements and deadlines for issuance: Core Subjects with Science of Teaching Reading: Early Childhood-Grade 6; Core Subjects with Science of Teaching Reading: Grades 4-8; English Language Arts and Reading with Science of Teaching Reading: Grades 4-8; and English Language Arts and Reading/Social Studies with Science of Teaching Reading: Grades 4-8. Technical changes would also provide clarification and consistent information related to the classroom teacher certificates issued by the SBEC.

**BACKGROUND INFORMATION AND JUSTIFICATION:** The TEC, §21.041(b)(2), authorizes the SBEC to adopt rules that specify the classes of educator certificates to be issued, including emergency certificates. The SBEC rules in 19 TAC Chapter 233 establish the general categories of classroom teaching certificates, identify specific grade levels and subject areas of classroom certificates, and, where appropriate, state the general area(s) of assignments that may be taught by the holder of each certificate.

HB 3, 86th Texas Legislature, 2019, requires that all educators who teach any grade level from Prekindergarten-Grade 6 demonstrate proficiency in the science of teaching reading on a certification examination beginning January 1, 2021. To comply with the enabling legislation, the current certificates that cover those grades must be updated to reflect the inclusion of the science of teaching reading component on each of those certificates. The current and proposed replacement certificates are as follows.

Figure: 19 TAC Chapter 233 - Preamble

Following is a description of the proposed amendments that reflect those changes.

#### §233.1. General Authority.

The proposed amendment in §233.1(a) would delete the acronym "SBEC" since there are no additional references in §233.1.

The proposed amendment in §233.1(e) would clarify that the provision is related to individuals seeking an initial certificate and would update language regarding the timeframe to use passing scores on eliminated examinations for certification purposes by clarifying the scores must be used in conjunction with completion of all other requirements for certification and would include a recommendation by the EPP, as specified in SBEC rule.

The proposed amendment in §233.1(g) would delete the provision related to teaching assignment options for a Grades 4-8 certificate holder, as it is duplicative since it is addressed in 19 TAC Chapter 231, Requirements for Public School Personnel Assignments.

The proposed amendment in §233.1(h) would reletter the provision to subsection (g) for technical formatting purposes.

*§233.2. Early Childhood; Core Subjects.*

The proposed amendment in §233.2(b) would clarify a December 31, 2020 deadline for issuance of the current Core Subjects: Early Childhood-Grade 6 certificate to comply with HB 3, which requires, beginning January 1, 2021, that all educators who teach any grade level from Prekindergarten-Grade 6 demonstrate proficiency in the science of teaching reading.

The proposed amendment in §233.2(c) would clarify a December 31, 2020 deadline for issuance of the current Core Subjects: Grades 4-8 certificate to comply with HB 3, which requires, beginning January 1, 2021, that all educators who teach any grade level from Prekindergarten-Grade 6 demonstrate proficiency in the science of teaching reading.

Proposed new §233.2(d) would add the Core Subjects with Science of Teaching Reading: Early Childhood-Grade 6 certificate to comply with HB 3, which requires, beginning January 1, 2021, that all educators who teach any grade level from Prekindergarten-Grade 6 demonstrate proficiency in the science of teaching reading. The proposed amendment would provide clarification regarding the earliest date of issuance and last date for certificate issuances on appropriate examinations.

Proposed new §233.2(e) would add the Core Subjects with Science of Teaching Reading: Grades 4-8 certificate to comply with HB 3, which requires, beginning January 1, 2021, that all educators who teach any grade level from Prekindergarten-Grade 6 demonstrate proficiency in the science of teaching reading. The proposed amendment would provide clarification regarding the earliest date of certificate issuance.

*§233.3. English Language Arts and Reading; Social Studies.*

The proposed amendment in §233.3(a) would clarify a December 31, 2020 deadline for issuance of the current English Language Arts and Reading: Grades 4-8 certificate to comply with HB 3, which requires, beginning January 1, 2021, that all educators who teach any grade level from Prekindergarten-Grade 6 demonstrate proficiency in the science of teaching reading.

Proposed new §233.3(b) would add the English Language Arts and Reading with Science of Teaching Reading: Grades 4-8 certificate to comply with HB 3, which requires, beginning January 1, 2021, that all educators who teach any grade level from Prekindergarten-Grade 6 demonstrate proficiency in the science of teaching reading. The proposed amendment would provide clarification regarding the earliest date of issuance and last date for certificate issuance on the appropriate examination.

The proposed amendment in §233.3(b) and (c) would reletter the provisions to subsections (c) and (d) for technical formatting purposes.

The proposed amendment in §233.3(d) would clarify a December 31, 2020 deadline for issuance of the current English Language Arts and Reading/Social Studies: Grades 4-8 certificate to comply with HB 3, which requires, beginning January 1, 2021, that all educators who teach any grade level from Prekindergarten-Grade 6 demonstrate proficiency in the science of teaching reading.

Proposed new §233.3(e) would add the English Language Arts and Reading/Social Studies with Science of Teaching Reading: Grades 4-8 certificate to comply with HB 3, which requires, beginning January 1, 2021, that all educators who teach any

grade level from Prekindergarten-Grade 6 demonstrate proficiency in the science of teaching reading. The proposed amendment would provide clarification regarding the earliest date of certificate issuance on the appropriate examinations.

The proposed amendment in §233.3(d)-(h) would reletter the provisions to subsections (f)-(j) for technical formatting purposes.

If proposed changes to 19 TAC Chapter 233 are adopted by the SBEC, subject to State Board of Education review, TEA staff anticipates future rulemaking specific to 19 TAC Chapter 231, Requirements for Public School Personnel Assignments, to align with applicable changes made in this chapter. This action would be necessary to maintain clear communication with the public regarding the current list of classroom certificates issued as it relates to teaching assignments specified in 19 TAC Chapter 231.

**FISCAL IMPACT:** Ryan Franklin, associate commissioner for educator leadership and quality, has determined that there is no additional fiscal impact on state and local governments and there are no additional costs to entities required to comply with the proposal.

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

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

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

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

**GOVERNMENT GROWTH IMPACT:** The TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not create a new regulation; would not expand, limit, or repeal an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

**PUBLIC BENEFIT AND COST TO PERSONS:** The public benefit anticipated as a result of the proposal would be the continued issuance of classroom teaching certificates to eligible individuals. The TEA staff has determined there is no anticipated cost to persons required to comply with the proposal.

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

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

PUBLIC COMMENTS: The public comment period on the proposal begins May 29, 2020 and ends June 29, 2020. A form for submitting public comments is available on the TEA website at [https://tea.texas.gov/About\\_TEA/Laws\\_and\\_Rules/SBEC\\_Rules\\_\(TAC\)/Proposed\\_State\\_Board\\_for\\_Educator\\_Certification\\_Rules/](https://tea.texas.gov/About_TEA/Laws_and_Rules/SBEC_Rules_(TAC)/Proposed_State_Board_for_Educator_Certification_Rules/). The SBEC will take registered oral and written comments on the proposal at the July 24, 2020 meeting in accordance with the SBEC board operating policies and procedures. All requests for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the Department of Educator Leadership and Quality, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701, Attention: Mr. Ryan Franklin, associate commissioner for educator leadership and quality, not more than 14 calendar days after notice of the proposal has been published in the *Texas Register* on May 29, 2020.

STATUTORY AUTHORITY. The amendments are proposed under Texas Education Code (TEC), §21.003(a), which states that a person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or school counselor by a school district unless the person holds an appropriate certificate or permit issued as provided by the TEC, Chapter 21, Subchapter B; TEC, §21.031, which authorizes the State Board for Educator Certification (SBEC) to regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators, and which states that in proposing rules under the TEC, Chapter 21, Subchapter B, the SBEC shall ensure that all candidates for certification or renewal of certification demonstrate the knowledge and skills necessary to improve the performance of the diverse student population of this state; TEC, §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; TEC, §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates; TEC, §21.041(b)(3), which requires the SBEC to propose rules that specify the period for which each class of educator certificate is valid; TEC, §21.041(b)(4), which requires the SBEC to propose rules that specify the requirements for the issuance and renewal of an educator certificate; TEC, §21.041(b)(6), which requires the SBEC to propose rules that provide for special or restricted certification of educators, including certification of instructors of American Sign Language; TEC, §21.044(e), which provides the requirements that SBEC rules must specify for a person to obtain a certificate to teach a health science technology education course; TEC, §21.044(f), which provides that SBEC rules for obtaining a certificate to teach a health science technology education course shall not specify that a person must have a bachelor's degree or establish any other credential or teaching experience requirements that exceed the requirements under TEC, §21.044(e); TEC, §21.0442, as added by House Bill (HB) 3349, 85th Texas Legislature, Regular Session, 2017, which requires the SBEC to create an abbreviated educator preparation program (EPP) for trade and industrial workforce training; TEC, §21.048(a), which requires the SBEC to propose rules prescribing comprehensive examinations for each class of certificate issued by the SBEC; TEC, §21.048(a), which also specifies that the commissioner of education shall determine the satisfactory level of performance required for each certification examination and require a satisfactory level of examination performance in each core subject covered by the generalist certification examination; TEC,

§21.048(a-2), as amended by HB 3, 86th Texas Legislature, 2019, which requires the SBEC to adopt rules to require individuals teaching any grade level from Prekindergarten-Grade 6 to demonstrate proficiency in the science of teaching reading; TEC, §21.0489, as added by Senate Bill 1839 and HB 2039, 85th Texas Legislature, Regular Session, 2017, which requires the SBEC to create a Prekindergarten-Grade 3 certificate; TEC, §21.0491, as added by HB 3349, 85th Texas Legislature, Regular Session, 2017, which requires the SBEC to create a probationary and standard trade and industrial workforce training certificate; and TEC, §22.0831(f)(1) and (2), which state the SBEC may propose rules regarding the deadline for the national criminal history check and implement sanctions for persons failing to comply with the requirements.

CROSS REFERENCE TO STATUTE. The amendments implement Texas Education Code (TEC), §§21.003(a); 21.031; 21.041(b)(1)-(4) and (6); 21.044(e) and (f); 21.048(a); 21.0442 and 21.0491, as added by House Bill (HB) 3349, 85th Texas Legislature, Regular Session, 2017; 21.048(a-2), as amended by HB 3, 86th Texas Legislature, 2019; 21.0489, as added by Senate Bill 1839 and HB 2039, 85th Texas Legislature, Regular Session, 2017; and 22.0831(f).

#### *§233.1. General Authority.*

(a) In this chapter, the State Board for Educator Certification [(SBEC)] establishes separate certificate categories within the certificate class for the classroom teacher established under §230.33 of this title (relating to Classes of Certificates).

(b) For purposes of authorizing a person to be employed by a school district under the Texas Education Code, §21.003(a), a certificate category identifies:

- (1) the content area or the special student population the holder may teach;
- (2) the grade levels the holder may teach; and
- (3) the earliest date the certificate may be issued.

(c) Unless provided otherwise in this title, the content area and grade level of a certificate category as well as the standards underlying the certification examination for each category are aligned with the Texas Essential Knowledge and Skills curriculum adopted by the State Board of Education.

(d) A category includes both a standard certificate and the related emergency or temporary credential. A category may comprise a standard base certificate or a supplemental certificate. A supplemental certificate may be issued only to a person who already holds the appropriate standard base certificate.

(e) A person must satisfy all applicable requirements and conditions under this title and other law to be issued a certificate in a category. A person seeking an initial standard certification must pass the appropriate examination(s) as prescribed in §230.21 of this title (relating to Educator Assessment). A person completing requirements for an initial [a] standard certificate using a score on an examination that has been eliminated must apply and pay for the certification and be recommended by an educator preparation program by the deadline specified in this chapter to be eligible for issuance of the certificate [not later than one year from the last test administration of the deleted examination]. Exceptions may be granted for a period of two years after the elimination of the examination for catastrophic illness of the educator or an immediate family member or military service of the applicant.

(f) If the governor declares a state of disaster consistent with the Texas Government Code, §418.014, Texas Education Agency staff

may extend deadlines in this chapter for up to 90 days as necessary to accommodate persons in the affected disaster areas.

~~[(g)]~~ A holder of a certificate valid for Grades 4-8 may teach technology applications in Grades 4-8 if integrated within an academic course or through interdisciplinary methodology in those subjects that the individual is certified to teach. The school district is responsible for ensuring that the educator has the appropriate technology applications knowledge and skills to teach the course(s) to which he or she is assigned. If Technology Applications is taught as a separate course, the educator shall be required to hold an appropriate technology applications certificate as specified in §233.5 of this title (relating to Technology Applications and Computer Science).]

~~[(g)]~~ ~~[(h)]~~ The general assignment descriptions in this chapter, where applicable, are subject to the specific provisions for the assignment of a holder of a certificate in Chapter 231 of this title (relating to Requirements for Public School Personnel Assignments), and in the event of any conflict with this chapter, Chapter 231 of this title shall prevail.

#### §233.2. *Early Childhood; Core Subjects.*

(a) Early Childhood: Prekindergarten-Grade 3. The Early Childhood: Prekindergarten-Grade 3 certificate may be issued no earlier than January 1, 2020.

(b) Core Subjects: Early Childhood-Grade 6. The Core Subjects: Early Childhood-Grade 6 certificate may be issued no earlier than January 1, 2015, and no later than December 31, 2020.

(c) Core Subjects: Grades 4-8. The Core Subjects: Grades 4-8 certificate may be issued no earlier than January 1, 2015, and no later than December 31, 2020.

(d) Core Subjects with Science of Teaching Reading: Early Childhood-Grade 6. The Core Subjects with Science of Teaching Reading: Early Childhood-Grade 6 certificate may be issued no earlier than January 1, 2021. The certificate may be issued on the basis of a passing score on the 291 Core Subjects EC-6 TExES examination no later than December 30, 2022. The certificate may be issued on the basis of a passing score on the 391 Core Subjects EC-6 TExES examination no earlier than January 1, 2021.

(e) Core Subjects with Science of Teaching Reading: Grades 4-8. The Core Subjects with Science of Teaching Reading certificate: Grades 4-8 may be issued no earlier than January 1, 2021.

#### §233.3. *English Language Arts and Reading; Social Studies.*

(a) English Language Arts and Reading: Grades 4-8. The English Language Arts and Reading: Grades 4-8 certificate may be issued no earlier than September 1, 2002, and no later than December 31, 2020.

(b) English Language Arts and Reading with Science of Teaching Reading: Grades 4-8. The English Language Arts and Reading: Grades 4-8 certificate may be issued no earlier than January 1, 2021. The certificate may be issued on the basis of a passing score on the 117 ELAR 4-8 TExES examination no later than October 30, 2022.

(c) ~~[(b)]~~ Social Studies: Grades 4-8. The Social Studies: Grades 4-8 certificate may be issued no earlier than September 1, 2002.

(d) ~~[(e)]~~ English Language Arts and Reading/Social Studies: Grades 4-8. The English Language Arts and Reading/Social Studies: Grades 4-8 certificate may be issued no earlier than September 1, 2002, and no later than December 31, 2020.

~~[(e)]~~ English Language Arts and Reading/Social Studies with Science of Teaching Reading: Grades 4-8. The English Language Arts and Reading/Social Studies with Science of Teaching Reading: Grades 4-8 certificate may be issued no earlier than January 1, 2021.

(f) ~~[(d)]~~ English Language Arts and Reading: Grades 7-12. The English Language Arts and Reading: Grades 7-12 certificate may be issued no earlier than September 1, 2013.

(g) ~~[(e)]~~ Social Studies: Grades 7-12. The Social Studies: Grades 7-12 certificate may be issued no earlier than September 1, 2013.

(h) ~~[(f)]~~ History: Grades 7-12. The History: Grades 7-12 certificate may be issued no earlier than September 1, 2013.

(i) ~~[(g)]~~ Journalism: Grades 7-12. The Journalism: Grades 7-12 certificate may be issued no earlier than September 1, 2013.

(j) ~~[(h)]~~ Speech: Grades 7-12. The Speech: Grades 7-12 certificate may be issued no earlier than November 1, 2010.

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

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Cristina De La Fuente-Valadez

Director, Rulemaking

State Board for Educator Certification

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For further information, please call: (512) 475-1475



## CHAPTER 235. CLASSROOM TEACHER CERTIFICATION STANDARDS

The State Board for Educator Certification (SBEC) proposes the repeal of §§235.15, 235.19, 235.25, 235.59, and 235.89 and new §§235.101, 235.117, 235.131, 235.133, and 235.135, concerning classroom teacher certification standards. The proposed revisions would specify the new standards for the specialized Special Education and Bilingual Spanish certifications, as well as the DeafBlind supplemental certification. Additional changes would also implement the statutory requirements of House Bill (HB) 3, 86th Texas Legislature, 2019, regarding the science of teaching reading standards applying to classroom teachers who teach through Grade 6; would provide implementation updates; and would reorganize current provisions to improve readability.

**BACKGROUND INFORMATION AND JUSTIFICATION:** The SBEC is statutorily authorized to ensure that all candidates for certification or renewal of certification demonstrate the knowledge and skills necessary to improve the performance of the diverse population of this state. The SBEC is also statutorily required to appoint advisory committee members to recommend standards for each class of certificate. The standards are the basis for the certification examinations and set the requirements for educator preparation program (EPP) curriculum and delivery. The standards development committees include practicing educators, school district personnel, experts, and EPP faculty. These committee members collaborate to draft educator standards or review existing educator standards to ensure that the educator standards align with the commissioner's educator

standards, reflect best practices, and where applicable, align with the current versions of the Texas Essential Knowledge and Skills (TEKS) that are adopted by the State Board of Education (SBOE).

The SBEC rules in 19 Texas Administrative Code (TAC) Chapter 235, Classroom Teacher Certification Standards, specify the educator standards for the classroom teacher class of certificates. The educator standards are the basis for EPP design to effectively prepare beginning classroom teachers and the foundation for the certification examinations.

At the July 2019 SBEC work session, the staff presented the SBEC with the standards development process and stakeholders involved with drafting the new educator standards for the Special Education and Bilingual Spanish certification examinations as well as a new DeafBlind supplemental certification.

At the December 2019 and February 2020 SBEC meetings, the staff presented the draft rule text of the educator standards.

The following is a description of the proposed revisions to 19 TAC Chapter 235 that incorporates feedback from the standards advisory committees and implements recent legislation.

#### Subchapter B. Elementary School Certificate Standards

##### Division 1. *Early Childhood: Prekindergarten-Grade 3,*

The heading, "Division 1, Early Childhood: Prekindergarten-Grade," would be stricken to eliminate the use of divisions to reduce confusion and to provide clarity on the organization of educator standards within appropriate subchapters. This proposed change would facilitate readability and easily accommodate future additions of content standards into appropriate subchapters.

##### *§235.15. Science of Teaching Reading Standards, Early Childhood: Prekindergarten-Grade 3.*

Section 235.15 would be repealed and proposed as §235.101 to implement HB 3, 86th Texas Legislature, 2019, which requires classroom teachers who teach students through sixth grade to pass the appropriate science of teaching reading examination. This change would remove the Prekindergarten-Grade 3 age-appropriateness limitation in order to require the science of teaching reading examination for all teachers who teach reading to students through sixth grade and would move these standards to proposed new Subchapter E to further emphasize the importance of reading instruction and preparation.

##### *§235.19. Implementation Date, Early Childhood: Prekindergarten-Grade 3.*

Section 235.19 would be repealed as it contradicts provisions in §228.30 regarding the EPP curriculum required for candidates and the implementation dates for EPP requirements in §228.60. This change would provide consistency and clarity to EPPs and certification candidates as it relates to expectations around the content of preparation for certification and the scope of the information to be assessed on certification examinations for licensure.

##### Division 2. *Early Childhood-Grade 6.*

The heading, "Division 2: Early Childhood-Grade 6," would be stricken to eliminate the use of divisions to reduce confusion and provide clarity on the organization of educator standards within appropriate subchapters. This proposed change would facilitate readability and easily accommodate future additions of content standards into appropriate subchapters.

##### *§235.25. Implementation Date, Early Childhood-Grade 6.*

Section 235.25 would be repealed as it contradicts provisions in §228.30 regarding the EPP curriculum required for candidates and the implementation dates for EPP requirements in §228.60. This change would provide consistency and clarity to EPPs and certification candidates as it relates to expectations around the content of preparation for certification and the scope of the information to be assessed on certification examinations for licensure.

#### Subchapter C. Middle School Certificate Standards

##### *§235.59. Implementation Date, Grades 4-8.*

Section 235.59 would be repealed as it contradicts provisions in §228.30 regarding the EPP curriculum required for candidates and implementation dates for EPP requirements in §228.60. This change would provide consistency and clarity to EPPs and certification candidates as it relates to expectations around the content of preparation for certification and the scope of the information to be assessed on certification examinations for licensure.

#### Subchapter D. Secondary School Certificate Standards

##### *§235.89. Implementation Date, Grades 7-12.*

Section §235.89 would be repealed as it contradicts provisions in §228.30 regarding the EPP curriculum required for candidates and §228.60 implementation dates for EPP requirements. This change would provide consistency and clarity to EPPs and certification candidates as it relates to expectations around the content of preparation for certification and the scope of the information to be assessed on certification examinations for licensure.

#### Subchapter E. Science of Teaching Reading Standards

##### *§235.101. Science of Teaching Reading Standards.*

Proposed new §235.101 would maintain the current science of teaching reading standards from §235.15 and would be included in proposed new Subchapter E, Science of Teaching Reading Standards, that would provide a specific subchapter devoted to teaching reading and its impact on all children.

In addition, proposed new §235.101(a)(1)-(5) would specify the categories of classroom teachers that will be assessed by the science of teaching reading standards.

Proposed new §235.101(b) would clarify the current components of reading descriptions as follows.

Proposed new §235.101(b)(2) would add the phrase, "and alphabet knowledge," to clarify the expectations of print awareness in reading development.

Proposed new §235.101(b)(4) would add the phrase, "(decoding and encoding)," to clarify the expectations of phonics in reading development.

Proposed new §235.101(b)(5) would add the word, "reading," to clarify the expectations of fluency in reading development.

Proposed new §235.101(b)(7) would add the phrase, "syllabication and morphemic analysis," as a component of reading in reading development.

Proposed new §235.101(c)(1) would add the phrase, "providing explicit, systematic instruction that is sequential and multimodal (e.g., sequential lessons, gradual release model, structured literacy)," to the foundational reading skills in reading pedagogy.

Proposed new §235.101(c)(3) would add the word, "implementing," regarding instruction as a component of foundational reading skills in reading pedagogy.

#### Subchapter F. Supplemental Certificate Standards

##### *§235.117. Bilingual Spanish Standards.*

Proposed new §235.117 would provide the Bilingual Spanish educator standards. TEA staff have engaged in a process with stakeholders to draft educator standards for Bilingual Spanish standards. The proposed new Bilingual Spanish standards ensure a pathway of language preparedness for individuals completing educator preparation programs for certification and the classroom students receiving instruction in Spanish and English from well-prepared educators.

#### Subchapter G. Special Education Certificate Standards

##### *§235.131. Special Education Standards: Early Childhood-Grade 6.*

Proposed new §235.131 would provide the special education standards for Early Childhood-Grade 6 certificates and would be included in new Subchapter G, Special Education Certificate Standards, that would provide a specific subchapter devoted to special education and the impact on all children. The proposed educator standards would emphasize the knowledge and skills critical to establishing a solid foundation for students who receive special education services in classroom settings that span Early Childhood-Grade 6.

##### *§235.133. Special Education Standards: Grades 6-12.*

Proposed new §235.133 would provide the special education standards for Grades 6-12 certificates and would be included in new Subchapter G, Special Education Certificate Standards. The proposed educator standards would emphasize the knowledge and skills critical to establishing a solid foundation for students who receive special education services in classroom settings that span Grades 6-12.

##### *§235.135. DeafBlind Standards, Early Childhood-Grade 12.*

Proposed new §235.135 would provide the DeafBlind standards for Early Childhood-Grade 6 certificates and would be included in new Subchapter G, Special Education Certificate Standards. The proposed educator standards would emphasize the knowledge and skills crucial to establishing a solid foundation for students who are DeafBlind in classroom settings that span Early Childhood-Grade 6.

**FISCAL IMPACT:** Ryan Franklin, associate commissioner for educator leadership and quality, has determined that there is no additional fiscal impact on state or local governments and that there are no additional costs to entities required to comply with the proposal.

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

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

**COST INCREASE TO REGULATED PERSONS:** The proposal does not impose a cost on regulated persons, another state

agency, a special district, or a local government and, therefore, is not subject to TGC, §2001.0045.

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

**GOVERNMENT GROWTH IMPACT:** The TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not create a new regulation; would not expand, limit, or repeal an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

**PUBLIC BENEFIT AND COST TO PERSONS:** The public benefit anticipated as a result of the proposal would be more rigorous, relevant, and reliable requirements for the preparation, certification, and testing of classroom teachers upon entry into the profession and retention of these qualified professionals for years to come. There is no anticipated cost to persons required to comply with the proposal.

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

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

**PUBLIC COMMENTS:** The public comment period on the proposal begins May 29, 2020 and ends June 29, 2020. A form for submitting public comments is available on the TEA website at [https://tea.texas.gov/About\\_TEA/Laws\\_and\\_Rules/SBEC\\_Rules\\_\(TAC\)/Proposed\\_State\\_Board\\_for\\_Educator\\_Certification\\_Rules/](https://tea.texas.gov/About_TEA/Laws_and_Rules/SBEC_Rules_(TAC)/Proposed_State_Board_for_Educator_Certification_Rules/). The SBEC will take registered oral and written comments on the proposal at the July 24, 2020 meeting in accordance with the SBEC board operating policies and procedures. All requests for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the Department of Educator Leadership and Quality, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701, Attention: Mr. Ryan Franklin, associate commissioner for educator leadership and quality, not more than 14 calendar days after notice of the proposal has been published in the *Texas Register* on May 29, 2020.

## SUBCHAPTER B. ELEMENTARY SCHOOL CERTIFICATE STANDARDS

### ~~[DIVISION 1. EARLY CHILDHOOD: PREKINDERGARTEN-GRADE 3]~~

#### **19 TAC §235.15, §235.19**

**STATUTORY AUTHORITY.** The repeals are proposed under Texas Education Code (TEC), §21.003(a), which states that a person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or school counselor by a school district unless the person holds an appropriate certificate or

permit issued as provided by the TEC, Chapter 21, Subchapter B; TEC, §21.031, which authorizes the State Board for Educator Certification (SBEC) to regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators, and states that in proposing rules under the TEC, Chapter 21, Subchapter B, the SBEC shall ensure that all candidates for certification or renewal of certification demonstrate the knowledge and skills necessary to improve the performance of the diverse student population of this state; TEC, §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; TEC, §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates; TEC, §21.041(b)(4), which requires the SBEC to propose rules that specify the requirements for the issuance and renewal of an educator certificate; and TEC, §21.048(a-2), as amended by House Bill 3, 86th Texas Legislature, 2019, which states that starting January 1, 2021, all candidates teaching Prekindergarten-Grade 6 must demonstrate proficiency in the science of teaching reading on a certification examination.

CROSS REFERENCE TO STATUTE. The repeals implement Texas Education Code (TEC), §§21.003(a), 21.031, 21.041(b)(1), (2), and (4), and 21.048(a-2), as amended by House Bill 3, 86th Texas Legislature, 2019.

§235.15. *Science of Teaching Reading Standards, Early Childhood: Prekindergarten-Grade 3.*

§235.19. *Implementation Date, Early Childhood: Prekindergarten-Grade 3.*

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 18, 2020.

TRD-202001953

Cristina De La Fuente-Valadez

Director, Rulemaking

State Board for Educator Certification

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For further information, please call: (512) 475-1475



## [DIVISION 2. EARLY CHILDHOOD-GRADE 6]

### 19 TAC §235.25

STATUTORY AUTHORITY. The repeal is proposed under Texas Education Code (TEC), §21.003(a), which states that a person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or school counselor by a school district unless the person holds an appropriate certificate or permit issued as provided by the TEC, Chapter 21, Subchapter B; TEC, §21.031, which authorizes the State Board for Educator Certification (SBEC) to regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators, and states that in proposing rules under the TEC, Chapter 21, Subchapter B, the SBEC shall ensure that all candidates for certification or renewal of certification demonstrate the

knowledge and skills necessary to improve the performance of the diverse student population of this state; TEC, §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; TEC, §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates; TEC, §21.041(b)(4), which requires the SBEC to propose rules that specify the requirements for the issuance and renewal of an educator certificate; and TEC, §21.048(a-2), as amended by House Bill 3, 86th Texas Legislature, 2019, which states that starting January 1, 2021, all candidates teaching Prekindergarten-Grade 6 must demonstrate proficiency in the science of teaching reading on a certification examination.

CROSS REFERENCE TO STATUTE. The repeal implements Texas Education Code (TEC), §§21.003(a), 21.031, 21.041(b)(1), (2), and (4), and 21.048(a-2), as amended by House Bill 3, 86th Texas Legislature, 2019.

§235.25. *Implementation Date, Early Childhood-Grade 6.*

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

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## SUBCHAPTER C. MIDDLE SCHOOL CERTIFICATE STANDARDS

### 19 TAC §235.59

STATUTORY AUTHORITY. The repeal is proposed under Texas Education Code (TEC), §21.003(a), which states that a person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or school counselor by a school district unless the person holds an appropriate certificate or permit issued as provided by the TEC, Chapter 21, Subchapter B; TEC, §21.031, which authorizes the SBEC to regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators, and states that in proposing rules under the TEC, Chapter 21, Subchapter B, the SBEC shall ensure that all candidates for certification or renewal of certification demonstrate the knowledge and skills necessary to improve the performance of the diverse student population of this state; TEC, §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; TEC, §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates; TEC, §21.041(b)(4), which requires the SBEC to propose rules that specify the requirements for the issuance and renewal of an educator certificate; and TEC,

§21.048(a-2), as amended by House Bill 3, 86th Texas Legislature, 2019, which states that starting January 1, 2021, all candidates teaching Prekindergarten-Grade 6 must demonstrate proficiency in the science of teaching reading on a certification examination.

**CROSS REFERENCE TO STATUTE.** The repeal implements Texas Education Code (TEC), §§21.003(a), 21.031, 21.041(b)(1), (2), and (4), and 21.048(a-2), as amended by House Bill 3, 86th Texas Legislature, 2019.

§235.59. *Implementation Date, Grades 4-8*

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

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## SUBCHAPTER D. SECONDARY SCHOOL CERTIFICATE STANDARDS

### 19 TAC §235.89

**STATUTORY AUTHORITY.** The repeal is proposed under Texas Education Code (TEC), §21.003(a), which states that a person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or school counselor by a school district unless the person holds an appropriate certificate or permit issued as provided by the TEC, Chapter 21, Subchapter B; TEC, §21.031, which authorizes the SBEC to regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators, and states that in proposing rules under the TEC, Chapter 21, Subchapter B, the SBEC shall ensure that all candidates for certification or renewal of certification demonstrate the knowledge and skills necessary to improve the performance of the diverse student population of this state; TEC, §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; TEC, §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates; TEC, §21.041(b)(4), which requires the SBEC to propose rules that specify the requirements for the issuance and renewal of an educator certificate; and TEC, §21.048(a-2), as amended by House Bill, 86th Texas Legislature, 2019, which states that starting January 1, 2021, all candidates teaching Prekindergarten-Grade 6 must demonstrate proficiency in the science of teaching reading on a certification examination.

**CROSS REFERENCE TO STATUTE.** The repeal implements Texas Education Code (TEC), §§21.003(a), 21.031, 21.041(b)(1), (2), and (4), and 21.048(a-2), as amended by House Bill 3, 86th Texas Legislature, 2019.

§235.89. *Implementation Date, Grades 7-12.*

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

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## SUBCHAPTER E. SCIENCE OF TEACHING READING STANDARDS

### 19 TAC §235.101

**STATUTORY AUTHORITY.** The new section is proposed under Texas Education Code (TEC), §21.003(a), which states that a person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or school counselor by a school district unless the person holds an appropriate certificate or permit issued as provided by the TEC, Chapter 21, Subchapter B; TEC, §21.031, which authorizes the SBEC to regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators, and states that in proposing rules under the TEC, Chapter 21, Subchapter B, the SBEC shall ensure that all candidates for certification or renewal of certification demonstrate the knowledge and skills necessary to improve the performance of the diverse student population of this state; TEC, §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; TEC, §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates; TEC, §21.041(b)(4), which requires the SBEC to propose rules that specify the requirements for the issuance and renewal of an educator certificate; and TEC, §21.048(a-2), as amended by House Bill 3, 86th Texas Legislature, 2019, which states that starting January 1, 2021, all candidates teaching Prekindergarten-Grade 6 must demonstrate proficiency in the science of teaching reading on a certification examination.

**CROSS REFERENCE TO STATUTE.** The new section implements Texas Education Code (TEC), §§21.003(a), 21.031, 21.041(b)(1), (2), and (4), and 21.048(a-2), as amended by House Bill 3, 86th Texas Legislature, 2019.

§235.101. *Science of Teaching Reading Standards.*

(a) Science of Teaching Reading (STR) Standards. The STR standards identified in this section are targeted for classroom teachers of early learners (birth through age eight). The standards address the discipline that deals with the theory and practice of teaching early reading. The standards inform proper teaching techniques, strategies, teacher actions, teacher judgements, and decisions by taking into consideration theories of learning, understandings of students and their needs, and the backgrounds and interests of individual students. The standards are also aligned with the *Texas Prekindergarten Guidelines* and Chapter 110 of this title (relating to Texas Essential Knowledge and Skills for English Language Arts and Reading). The standards address



early reading content knowledge in Prekindergarten-Grade 6, with an emphasis on Prekindergarten-Grade 3, in order to meet the needs of all early learners and address vertical alignment. Candidates in the following categories of classroom teachers will be assessed by the STR standards:

- (1) Early Childhood: Prekindergarten-Grade 3;
- (2) Core Subjects with Science of Teaching Reading: Early Childhood-Grade 6;
- (3) Core Subjects with Science of Teaching Reading: Grades 4-8;
- (4) English Language Arts and Reading with Science of Teaching Reading: Grades 4-8; and
- (5) English Language Arts and Reading/Social Studies with Science of Teaching Reading: Grades 4-8.

(b) Knowledge of Reading Development Components. Classroom teachers identified in subsection (a) of this section demonstrate understanding of Kindergarten-Grade 6 Texas Essential Knowledge and Skills and the *Texas Prekindergarten Guidelines* pertaining to reading and apply knowledge of developmentally appropriate, research- and evidence-based assessment, and instructional practices to promote students' development of grade level skills within the following components of reading:

- (1) oral language development;
- (2) print awareness and alphabet knowledge;
- (3) phonological and phonemic awareness;
- (4) phonics (decoding and encoding);
- (5) reading fluency;
- (6) vocabulary development;
- (7) syllabication and morphemic analysis;
- (8) comprehension of literary text;
- (9) comprehension of informational text; and
- (10) beginning strategies and reading comprehension

skills.

(c) Reading Pedagogy. Classroom teachers identified in subsection (a) of this section demonstrate understanding of the principles of reading instruction and assessment and use a range of instructional strategies and assessment methods to promote students' development of foundational reading skills, including:

- (1) providing explicit, systematic instruction that is sequential and multimodal (e.g., sequential lessons, gradual release model, structured literacy);
- (2) implementing both formal and informal methods of measuring student progress in early reading development;
- (3) implementing, designing, and executing developmentally appropriate, standards-driven instruction that reflect evidence-based best practices; and
- (4) acquiring, analyzing, and using background information (familial, cultural, educational, linguistic, and developmental characteristics) to engage all students in reading, including students with exceptional needs and English learners.

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

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## SUBCHAPTER F. SUPPLEMENTAL CERTIFICATE STANDARDS

### 19 TAC §235.117

**STATUTORY AUTHORITY.** The new section is proposed under Texas Education Code (TEC), §21.003(a), which states that a person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or school counselor by a school district unless the person holds an appropriate certificate or permit issued as provided by the TEC, Chapter 21, Subchapter B; TEC, §21.031, which authorizes the SBEC to regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators, and states that in proposing rules under the TEC, Chapter 21, Subchapter B, the SBEC shall ensure that all candidates for certification or renewal of certification demonstrate the knowledge and skills necessary to improve the performance of the diverse student population of this state; TEC, §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; TEC, §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates; TEC, §21.041(b)(4), which requires the SBEC to propose rules that specify the requirements for the issuance and renewal of an educator certificate; and TEC, §21.048(a-2), as amended by House Bill 3, 86th Texas Legislature, 2019, which states that starting January 1, 2021, all candidates teaching Prekindergarten-Grade 6 must demonstrate proficiency in the science of teaching reading on a certification examination.

**CROSS REFERENCE TO STATUTE.** The new section implements Texas Education Code (TEC), §§21.003(a), 21.031, 21.041(b)(1), (2), and (4), and 21.048(a-2), as amended by House Bill 3, 86th Texas Legislature, 2019.

#### *§235.117. Bilingual Spanish Standards.*

(a) Spanish and English Bilingual Standards. The standards identified in this section are targeted for classroom teachers of bilingual education programs (Spanish and English). The standards address the discipline associated with the theory and practice of teaching students who are learning two languages simultaneously. The standards inform appropriate teaching techniques, methods, teacher actions, judgments, and decisions by taking into consideration theories and research of language acquisition, second language learning, understanding the needs and strengths of bilingual learners, and the backgrounds and interests of individual students.

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

(1) Academic language--words used in the learning of academic matter in a formal education context that are associated with literacy and academic achievement, including specific academic terms, technical language, and speech registers related to each field of study.

(2) Cultural responsiveness--the ability to learn from and relate respectfully with people of one's own culture as those from other cultures.

(c) Language Abilities. The bilingual education teacher possesses the language ability to teach across the curriculum and demonstrate proficiency in Spanish.

(1) Listening. In the Spanish language, the bilingual teacher understands oral communication in a variety of listening situations relevant to bilingual education, including professional topics, academic language, and day-to-day communication with students, parents, guardians, colleagues, and community members.

(2) Listening. In the Spanish language, the bilingual teacher understands oral communication in extended academic discourse on topics related to the profession.

(3) Speaking. In the Spanish language, the bilingual teacher uses appropriate formal and informal registers to communicate with various audiences and within settings relevant to the bilingual school context.

(4) Speaking. In the Spanish language, the bilingual teacher uses discourse that reflects correct grammatical and syntactical structures to communicate information and discuss topics relevant to the bilingual school context.

(5) Speaking. In the Spanish language, the bilingual teacher demonstrates the ability to use culturally and linguistically responsive language in everyday communication.

(6) Speaking. In the Spanish language, the bilingual teacher understands and applies academic language related to the Texas Knowledge and Skills (TEKS) during instruction as well as discussion of topics relevant to the school context.

(7) Reading. In the Spanish language, the bilingual teacher applies literal, inferential, and interpretive reading skills to authentic materials relevant to the school context.

(8) Reading. In the Spanish language, the bilingual teacher understands written materials that include academic vocabulary used to teach the TEKS in a variety of content areas.

(9) Writing. In the Spanish language, the bilingual teacher writes effective and coherent interpersonal discourse using accurate standard Spanish conventions, sentence structure, orthography, spelling, vocabulary, grammar, and syntax. (e.g., professional e-mail, parent communication, and other school documents).

(10) Writing. In the Spanish language, the bilingual teacher writes extended coherent professional discourse in an appropriate academic register using sentence structure, orthography, spelling, vocabulary, grammar, and syntax (e.g., newsletter, memos, special events).

(11) Writing. In the Spanish language, the bilingual teacher writes coherent instructional material using accurate standard Spanish conventions, sentence structure, orthography, spelling, vocabulary, grammar, and syntax (e.g., essays, exit tickets, exemplars).

(12) Writing. In the Spanish language, the bilingual teacher effectively models for students how to write to explain, narrate, and describe using accurate standard Spanish conventions, sentence structure, orthography, spelling, vocabulary, grammar, and syntax.

(d) Socio-Cultural Competence. The bilingual teacher knows, understands, and uses major concepts, principles, and theories related to the nature and role of culture and cultural groups to construct a mutually adaptive learning environment for bilingual learners. The bilingual teacher:

(1) recognizes, affirms, fosters, and leverages learners' bilingualism, biliteracy, biculturalism, and experiences as assets in service of their learning and is an advocate for the bilingual program and the participating learners (e.g., serves as school and community liaison, participates in teacher retention and recruitment committees);

(2) promotes learners' bilingual and bicultural identity through culturally and linguistically responsive activities;

(3) understands the socio-historical backgrounds of bilingual learners (both past and present) and uses this information to create an effective bilingual and multicultural learning environment;

(4) uses knowledge of major theories and research related to the nature and role of culture to select instructional materials, methods, and delivery techniques that facilitate learning for a multicultural classroom;

(5) understands how to draw upon the deep personal, familial, and communal cultural knowledge that bilingual learners possess in order to construct new cultural knowledge;

(6) knows and understands how to create culturally and linguistically responsive lessons and classroom environment and advocates for a culturally and linguistically responsive school (e.g., takes an active role in advisory committees at the campus and district levels, campus improvement committee, admissions committee);

(7) has knowledge of diversity within the language and cultural groups (e.g., awareness of regional differences in languages and cultural groups);

(8) recognizes factors that contribute to cultural bias (e.g., stereotyping, prejudice, ethnocentrism), demonstrates sensitivity to students' diverse cultural and socioeconomic backgrounds, and applies this knowledge to create a culturally and linguistically responsive learning environment; and

(9) creates an effective learning environment that addresses the socio-emotional, linguistic, and cognitive needs as well as promotes the bicultural identity of bilingual learners and ways to bridge home and school cultures (e.g., lessons and activities embedded to the development of learners' cross-cultural and sociocultural competence, lessons and activities designed to foster mutual appreciation and respect for the target cultural groups, plans and designs activities that foster mutual appreciation and respect for targeted cultural groups among families and community members).

(e) Instructional Practice. The bilingual education teacher understands and applies research-based components and processes of language acquisition and biliteracy development. The bilingual teacher:

(1) has a comprehensive knowledge of content-area instruction in both languages;

(2) knows and understands state educator certification standards in all content areas relevant to the certificate level;

(3) knows and understands the statewide curriculum in all content areas as specified in the TEKS;

(4) understands the alignment of and difference between the Spanish Language Arts and Reading (SLAR) and English Language Arts and Reading (ELAR) TEKS and uses this information to develop culturally and linguistically responsive lesson plans that build biliter-

acy and facilitate language transfer to develop bilingualism in both languages;

(5) knows and understands how to integrate language development and content-area instruction to meet the cognitive, linguistic, and affective needs of students in accordance with Chapter 89, Subchapter BB, of Part II of this title (relating to Commissioner's Rules Concerning State Plan for Educating English Learners);

(6) uses Latino multicultural children's literature and authentic materials to promote biliteracy, biculturalism, and content knowledge;

(7) understands and applies methodologies and strategies for teaching English as a second language (ESL) via an English language development block as well as through content areas (e.g., Total Physical Response (TPR), Sheltered Instruction Observation Protocol (SIOP), pre-teaching vocabulary, and scaffolding strategies to make new information comprehensible);

(8) understands and applies research-based differentiation strategies to make content-area instruction comprehensible in order to meet the academic and linguistic needs of bilingual learners;

(9) identifies, selects, or designs developmentally, culturally, and linguistically appropriate materials, resources, realia, technology, and assessment for use in a bilingual classroom;

(10) understands and applies major language components in both languages (e.g., phonics, phonology, morphology, syntactic features, semantics, and pragmatics), methodologies and strategies for integrating language and content instruction (Spanish and English) using sheltered instruction techniques in Spanish and English; understands and applies theoretical concepts such as instruction for biliteracy, bi-directional transfer, use of cognates, contrastive analysis, and translanguaging;

(11) understands and applies differentiated methodologies and strategies for instructing a wide variety of linguistically diverse learners (e.g., heritage language learners, simultaneous bilinguals, recent arrivals, long-term English learners, and Spanish learners in a two-way program) within different school-based configurations and program models; and

(12) promotes critical-thinking, problem-solving, and collaborative learning strategies to enhance bilingualism, biliteracy, and content knowledge.

(f) Development and Assessment of Biliteracy. The bilingual education teacher demonstrates a comprehensive knowledge of the development and assessment of literacy in the bilingual learners' primary/partner language and English and can design and deliver meaningful biliteracy experiences for diverse bilingual learners. The bilingual teacher:

(1) understands the components of biliteracy and strategically plans for language transfer and implements the ELAR TEKS, SLAR TEKS, and the English Language Proficiency Standards (ELPS) to develop literacy in both languages;

(2) utilizes assessments (formative and summative) in strategic ways and analyzes the data to guide instruction;

(3) uses informal and formal assessments to measure learners' bilingualism and proficiency level to guide instruction;

(4) uses knowledge of the connection between the ELPS in §74.4 of Part II of this title (relating to English Language Proficiency Standards) and the Texas English Language Proficiency Assessment System (TELPAS) to evaluate and monitor the progress of bilingual

learners identified as English learners in their English language proficiency when planning and delivering data-driven instruction;

(5) assesses and monitors learners' Spanish proficiency level in listening, speaking, reading, and writing when planning and delivering data-driven instruction;

(6) understands that assessment is recursive and the need to use multiple data points to assess and monitor biliteracy development across language domains when planning and delivering responsive instruction and when providing opportunities to develop biliteracy skills;

(7) understands and applies authentic methods for biliteracy instruction that reflect the unique characteristics of English and Spanish;

(8) recognizes implicit cultural and linguistic biases in assessment and high-stakes testing;

(9) creates authentic and purposeful, measurable learning activities and experiences in all content areas that promote bilingual learners' development of concepts and skills in both languages and recognizes the students' biliteracy trajectory; and

(10) identifies and/or develops assessments that are linguistically and culturally authentic.

(g) Foundations of Bilingual Education. The bilingual education teacher demonstrates an understanding of the historical context of bilingual education in the United States and around the world; bilingual education program models approved in Texas in accordance with Chapter 89, Subchapter BB, of this title; the unique needs of bilingual learners; laws pertaining to English learners in bilingual education programs; the Office of Civil Rights and U.S. Department of Justice guidelines; and the importance of advocacy and equity for the bilingual learner. The bilingual teacher:

(1) knows and understands public issues and educational policy that impact effective programming and equitable learning environments;

(2) is an advocate for equity for bilingual learners and their equal access to all programs, resources, and materials;

(3) shares their knowledge of second language acquisition with general-education, ESL-education, and content-area colleagues and the school community to advocate for appropriate instruction and assessment;

(4) demonstrates sensitivity to learners' diverse cultural backgrounds and shows respect for regional language differences considering the learner's entire linguistic repertoire;

(5) knows and understands the historical background, effects of demographic changes, pertinent federal and state legislation and significant court cases, (e.g., the Civil Rights Act of 1964, the Bilingual Education Act (BEA), Chapter 89, Subchapter BB, of this title, Lau vs. Nichols, Demetrio Rodriguez vs. San Antonio ISD, Plyer vs. Doe, Santamaria vs. Dallas ISD);

(6) demonstrates awareness of the concept of bilingualism throughout the world (e.g., Lycee de Francais, the language of the global economy, language policy in Canada, South Africa, Switzerland, and India);

(7) understands the models of bilingual education approved in Texas in accordance with Chapter 89, Subchapter BB, of this title, including the program model characteristics and goals; curriculum, assessment, and accountability; research findings on the effectiveness of the program models; and the critical components that contribute to effective program model implementation (e.g., systems

approach, program model design, instructional methods, and family and community engagement);

(8) makes appropriate instructional decisions based on program model design, best practices according to research on language acquisition and bilingual learners, knowledge of classroom and campus diversity, and an understanding of linguistically and culturally appropriate materials and methodologies;

(9) understands federal- and state-mandated policies and statutes related to English learners, including the roles, responsibilities, and processes for the Language Proficiency Assessment Committee (LPAC) in the identification, serving, and reclassification as an English learner in Texas;

(10) understands federal- and state-mandated policies and statutes related to programs for English learners, including LPAC guidelines for program placement, reclassification, and monitoring in Texas;

(11) applies the appropriate state-mandated criteria and LPAC procedures for identification, recommendation of program services, reclassification, monitoring, and exit; and

(12) understands the role of the LPAC in coordinating with other special programs (e.g., special education, Section 504, dyslexia, gifted and talented) as applicable.

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 18, 2020.

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Cristina De La Fuente-Valadez

Director, Rulemaking

State Board for Educator Certification

Earliest possible date of adoption: June 28, 2020

For further information, please call: (512) 475-1475



## SUBCHAPTER G. SPECIAL EDUCATION CERTIFICATE STANDARDS

### 19 TAC §§235.131, 235.133, 235.135

STATUTORY AUTHORITY. The new sections are proposed under Texas Education Code (TEC), §21.003(a), which states that a person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or school counselor by a school district unless the person holds an appropriate certificate or permit issued as provided by the TEC, Chapter 21, Subchapter B; TEC, §21.031, which authorizes the SBEC to regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators, and states that in proposing rules under the TEC, Chapter 21, Subchapter B, the SBEC shall ensure that all candidates for certification or renewal of certification demonstrate the knowledge and skills necessary to improve the performance of the diverse student population of this state; TEC, §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; TEC, §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, in-

cluding emergency certificates; TEC, §21.041(b)(4), which requires the SBEC to propose rules that specify the requirements for the issuance and renewal of an educator certificate; and TEC, §21.048(a-2), as amended by House Bill 3, 86th Texas Legislature, 2019, which states that starting January 1, 2021, all candidates teaching Prekindergarten-Grade 6 must demonstrate proficiency in the science of teaching reading on a certification examination.

CROSS REFERENCE TO STATUTE. The new sections implement Texas Education Code (TEC), §§21.003(a), 21.031, 21.041(b)(1), (2), and (4), and 21.048(a-2), as amended by House Bill 3, 86th Texas Legislature, 2019.

#### §235.131. Special Education Standards: Early Childhood-Grade 6.

(a) Special Education Standards. The standards identified in this section are targeted for teachers of students who receive special education services. The standards address the discipline associated with the theory and practice of teaching students who receive special education services. The standards inform appropriate teaching techniques, methods, and teacher actions, judgments, and decisions by taking into consideration philosophical, historical, and legal foundations of special education, characteristics of students who receive special education services, understandings of the needs and strengths of students who receive special education services, and the backgrounds and interests of individual students.

(b) Legal and Ethical Guidelines. The Early Childhood-Grade 6 special education teacher demonstrates knowledge of all applicable state and federal laws, including Individuals with Disabilities Education Act (IDEA) of 2004; Section 504 of the Rehabilitation Act of 1973; The Americans with Disabilities Act (ADA) of 1990 and ADA Amendments Act (ADAAA) of 2008; Texas Education Code specific to students with disabilities; Texas Administrative Code specific to students with disabilities; and Family Education Rights and Privacy Act. The Early Childhood-Grade 6 special education teacher must:

(1) demonstrate knowledge of the major state and federal legislation (e.g., IDEA, Section 504, ADA, ADAAA) that has affected knowledge and practice of the education of individuals with high support needs;

(2) demonstrate knowledge of the history of exclusion of and discrimination against people with disabilities;

(3) demonstrate knowledge of IDEA 2004 eligibility categories;

(4) demonstrate knowledge of all required components of an Individualized Education Program (IEP) as outlined in federal and state law;

(5) demonstrate knowledge of all sections of the special education legal folder and where to store required documentation;

(6) demonstrate knowledge of the legal responsibility of all school staff to fully implement an IEP;

(7) demonstrate knowledge of the legal responsibility of all teachers and school staff to protect the confidentiality and dignity of students with disabilities;

(8) demonstrate knowledge of the special education teacher's roles and responsibilities regarding Child Find;

(9) demonstrate knowledge of the special education teacher's roles and responsibilities in creating and implementing the IEP with fidelity, including monitoring student IEP goal progress, implementing data collection of IEP goal progress, and reporting progress to the student and parents/guardians throughout the IEP year;

(10) use a variety of assessment data to write annual measurable goals and present levels of academic achievement and functional performance and identify appropriate accommodations (academic, behavior, state, and district testing) and modifications based on individual student needs, and contribute to drafting the IEP;

(11) maintain student legal folders and store ongoing documentation according to local education agency (LEA) requirements and keep records to document receipt of the IEP by all required school staff;

(12) audit student class schedules to ensure compliance with least restrictive environment and schedule of services in the IEP;

(13) demonstrate knowledge of the role and responsibilities of the special education teacher in preparing for an Admission, Review, Dismissal (ARD) committee meeting, including collecting required data, interpreting the results of progress monitoring and classroom assessment data, and visually representing and interpreting data to show student progress;

(14) demonstrate knowledge of the roles and responsibilities of the required members of an ARD committee;

(15) demonstrate knowledge of the required components of a typical ARD committee meeting agenda;

(16) interpret the results of a variety of assessment data (i.e., classroom, state and district transition assessment) in plain language to explain present levels of student academic achievement and functional performance, student progress on annual IEP goals, and mastery of grade level TEKS to the ARD committee members;

(17) prepare and support students in leading ARD committee discussion regarding progress on IEP goals, mastery of grade level TEKS, appropriate accommodations (academic, behavior, state and district assessment), transition needs and goals, and other supplements as needed;

(18) apply knowledge of individuals served through special education as well as special education laws and policies to facilitate and advocate for families' full participation in the education of their students;

(19) demonstrate understanding that students served through special education may also have other special populations identifiers (i.e., gifted and talented, English learners, highly mobile and at risk, dyslexia);

(20) advocate for family and student participation in the IEP, ARD meetings, and transition plan;

(21) foster and support students in their development of self-reliance and self-advocacy;

(22) advocate for high academic and behavioral expectations for students with disabilities;

(23) demonstrate understanding that individuals with high support needs deserve to be challenged with high expectations and provided with meaningful inclusive participation opportunities to develop the highest possible learning outcomes; and

(24) demonstrate a foundational knowledge of the Individualized Family Service Plan (IFSP).

(c) Understanding and Addressing Each Individual's Developmental and Learning Needs. The Early Childhood-Grade 6 special education teacher must:

(1) demonstrate knowledge about relevant physical and emotional development from birth through adolescence;

(2) demonstrate knowledge of how stress, trauma, protective factors, resilience, and supportive relationships may impact learning, behavior, and development in young children;

(3) demonstrate knowledge of how exceptionalities can interact with development and learning;

(4) demonstrate understanding that students with all support needs may also come from a different cultural background, may speak other languages than those of the dominant culture, or may come from a unique racial or ethnic group;

(5) demonstrate knowledge of the multiple biological, physical, psychological, and social influences that affect learning and development when working with individuals with high support needs;

(6) demonstrate knowledge of strategies to support students' development and independence given relevant grade level expectations for academic and behavior for students from birth through adolescence;

(7) apply a variety of evidence-based, age-appropriate classroom routines and procedures that support individual developmental and learning needs;

(8) demonstrate knowledge of a variety of assistive technologies to support individual developmental and learning needs;

(9) demonstrate knowledge of how developmental academic, social, and functional characteristics of individuals with high support needs impact levels of support needs;

(10) apply knowledge of evidence-based practices to identify and intervene when students are not making progress in functional, academic, or behavioral goals; and

(11) demonstrate the knowledge and ability to adapt instruction when students with high support needs do not meet milestones.

(d) Subject Matter Content and Specialized Curricular Knowledge. The Early Childhood-Grade 6 special education teacher must:

(1) demonstrate knowledge of the Emergent Literacy-Writing, Mathematics, Science, and Fine Arts domains of the *Texas Prekindergarten Guidelines*;

(2) demonstrate knowledge of the Texas Essential Knowledge and Skills (TEKS) for English language arts and reading, mathematics, science, and fine arts (Kindergarten-Grade 6);

(3) demonstrate specific knowledge of early numeracy, early literacy, and pre-academic skills according to the TEKS and the *Texas Prekindergarten Guidelines*;

(4) apply content-specific knowledge to develop individualized goals and objectives that are aligned with the appropriate grade-level TEKS and the *Texas Prekindergarten Guidelines*;

(5) design appropriate learning and performance accommodations and modifications for students with exceptional learning needs in academic subject matter content of the general curriculum;

(6) apply content-specific knowledge to modify and differentiate instruction as well as provide access to instructional materials for a wide range of student performance levels;

(7) apply understanding of the subject matter TEKS, the *Texas Prekindergarten Guidelines*, and specialized curricula to inform programmatic and instructional decisions for students with high support needs;

(8) understand how to identify a learner's preferred mode of communication;

(9) demonstrate a content-specific knowledge at a level necessary for students with exceptionalities to progress in their individualized programs toward completion of appropriate graduation requirements;

(10) apply content-specific knowledge to routinely collaborate, co-teach, modify, and adapt curriculum with general education teachers;

(11) demonstrate knowledge of how to integrate appropriate instructional and assistive technology for students in Prekindergarten-Grade 6;

(12) apply knowledge of individual learner characteristics and specialized curricula knowledge to accommodate, modify, and/or adapt the curricula across contexts;

(13) demonstrate knowledge of specialized curricula that may include curriculum for social skills, life skills, transition, orientation and mobility, independence, and self-advocacy;

(14) demonstrate knowledge of families, culture, and community when involving paraprofessionals, general educators, specialists, resources, and supports to create and incorporate strategies for making content and instruction accessible and challenging for students at all levels of support needs;

(15) demonstrate knowledge of how to provide modified access to subject-specific instructional materials to address individual learner needs in different contexts such as center-based, home-based, and school-based classrooms, including specialized and general classrooms; and

(16) recognize barriers to accessibility and acceptance of individuals with high support needs and plan for ways to address those barriers through the implementation of specialized curricula.

(e) Assessment for Data-based Decision Making. The Early Childhood-Grade 6 special education teacher must:

(1) demonstrate knowledge of different forms, purposes, and applications of assessment to inform development of the IEP and plan instruction;

(2) assess students' learning, behavior, and the classroom environment in order to evaluate and support classroom and school-based problem-solving systems of intervention and instruction;

(3) use data from variety of formative and summative assessments to identify learning goals and plan and adapt instruction;

(4) demonstrate knowledge of how to implement, collect data from, and keep records of ongoing formative assessment;

(5) use the results of multiple assessments to determine if a student is making adequate progress toward measurable outcomes;

(6) use assessment results to design, adjust, plan, and inform instruction or intervention;

(7) accurately interpret the results of various forms of assessments, including state assessments and district benchmark assessments;

(8) accurately analyze, interpret, and discuss the results of a variety of evaluation data for an individual student;

(9) interpret a variety of evaluation data, including measures of student functioning and educational, physical, and medical needs;

(10) identify, recommend, and implement appropriate accommodations and/or modifications for classroom, behavior, state, and district testing or other assessments as determined by the ARD committee;

(11) provide feedback to stakeholders regarding student performance on assessments and interpret assessment results in plain language for parents and students;

(12) administer, interpret, and gather baseline data from screening instruments and diagnostic reading, mathematics, and behavior assessments;

(13) support students to understand and use their assessment data to self-monitor and self-regulate; and

(14) collaborate with professionals with additional expertise as needed (e.g., English as a second language specialists, bilingual specialists, translators, speech and language pathologists, behavior specialists) to ensure an appropriate and valid assessment process.

(f) Supporting Learning Using Effective Instruction. The Early Childhood-Grade 6 special education teacher must:

(1) demonstrate knowledge of how to plan instruction according to the requirements of an IEP, including supplements, assistive technology, and related services;

(2) demonstrate knowledge of the key differences between IEP accommodations and modified curriculum;

(3) design instruction to meet the needs of a diverse group of students based on information from various types of formative and summative assessments;

(4) plan for strategic integration of assistive technology into daily teaching practices based on student developmental and learning needs;

(5) use knowledge of the learning processes of young children from birth through adolescence to select, adapt, and apply instructional strategies that meet the needs of individual students and support transition goals;

(6) use explicit, scaffolded, and systematic instruction to teach content, strategies, and skills;

(7) design individualized instruction that adapts instructional intensity and/or intervention to build on students' strengths and accommodate students' needs;

(8) provide specific, developmentally appropriate, and explicit feedback to students during instruction to engage, motivate, and support students toward mastery;

(9) plan and integrate transition-focused activities into classroom instruction;

(10) create opportunities for students to demonstrate their knowledge and skills using different modalities and allow every individual to advance as he or she demonstrates understanding;

(11) apply knowledge of developmentally appropriate instructional strategies to engage, motivate, and promote learning specific to the needs of young children with exceptionalities;

(12) apply knowledge of the learning processes of young children to select and use a variety of grouping strategies (e.g., whole group, small group, individual) to meet the learning needs of each student;

(13) promote the generalization of concepts and skills across content areas and educational settings;

(14) design visual supports to promote student mastery of curriculum, executive functioning, and classroom procedures;

(15) adapt instruction and make regular changes based on data from assessments;

(16) plan, adapt, and deliver learning experiences for individuals with high support needs in an inclusive manner that reflects an understanding of the continuum of instructional settings and an understanding of how to engage individuals with high support needs in inclusive, meaningful learning activities across instructional settings;

(17) apply knowledge of the Universal Design for Learning Guidelines to create and incorporate strategies for making content and instruction accessible and challenging for individuals with all support needs;

(18) apply knowledge of students, content, and pedagogy to develop, implement, evaluate, and revise instruction and interventions as needed;

(19) demonstrate a thorough knowledge of the learning processes of young children; and

(20) use strategies to promote active student engagement.

(g) Supporting Social, Behavioral, and Emotional Growth. The Early Childhood-Grade 6 special education teacher must:

(1) design effective and universally accessible environments and learning experiences appropriate for students in Prekindergarten-Grade 6;

(2) demonstrate knowledge of developmentally appropriate preventative and responsive practices that contribute to a positive and safe learning environment;

(3) demonstrate knowledge of classroom and schoolwide systems of Positive Behavioral Intervention and Supports (PBIS);

(4) demonstrate knowledge of the key components and purposes of a Functional Behavioral Assessment (FBA);

(5) demonstrate knowledge of the key components and purposes of a Behavior Intervention Plan (BIP);

(6) demonstrate knowledge of the key components and purposes of restorative discipline practices;

(7) create an environment in which expectations are clear and predictable and instructional routines and classroom procedures are used to support and engage students;

(8) use developmentally appropriate procedures and routines to facilitate safe and efficient transitions, promote independence, self-regulation, and executive functioning;

(9) use effective procedures and routines to create a physically safe, relationship-driven, and organized learning environment with access to materials, instruction, and content that facilitates social communication with peers and staff;

(10) establish, explicitly teach, and maintain clear expectations for student behavior;

(11) demonstrate knowledge of research-based de-escalation strategies to effectively address aggressive behavior;

(12) build positive relationships with students based on understanding of individual strengths and needs, high expectations, and mutual respect and rapport;

(13) create an atmosphere of safety that encourages social, emotional, and physical well-being of staff and students;

(14) use sources of data, such as the BIP, to identify or develop effective, evidence-based, and, whenever possible, function-based practices for class-wide or individual-level interventions;

(15) analyze progress monitoring data as defined in the BIP to evaluate the effects of behavioral interventions;

(16) consider multiple avenues of intervention and reinforcement techniques such as class-wide and/or individual-level interventions;

(17) use FBA to collect data and analyze and utilize the data to design behavior intervention;

(18) conform to legal and ethical guidelines for all behavioral interventions;

(19) demonstrate knowledge of the impact of behavior on the learning of students and classmates;

(20) understand how factors, including family, community, exceptionalities, and trauma impact student behavior in the learning environment;

(21) demonstrate understanding of the importance of digital citizenship and the vulnerability of youth with exceptionalities to social media influences;

(22) provide positive and constructive specific, developmentally-appropriate, and explicit feedback to guide student behavior;

(23) demonstrate knowledge and apply principles of Applied Behavior Analysis (ABA);

(24) demonstrate knowledge of how to find appropriate school and community supports for students who need social, physical, and/or emotional learning support; and

(25) take active measures to prevent bullying, maltreatment, violence, and sexual assault, and report any instances through appropriate channels.

(h) Professional Learning and Collaboration. The Early Childhood-Grade 6 special education teacher must:

(1) demonstrate knowledge of the roles and responsibilities of the Early Childhood-Grade 6 special education teacher and of other professionals who deliver special education services, including related and instructional service providers;

(2) collaborate with paraprofessionals to identify and define the responsibilities, skills, and professional development needed for their roles;

(3) collaborate in a culturally responsive manner with families, paraprofessionals, and other professionals to lead effective meetings that address students' instructional, emotional, behavioral, and social needs;

(4) consult with campus staff and/or colleagues about strategies, supports, and implementation of IEPs;

(5) coordinate with service providers and build student schedules;

(6) implement transition activities in the IEP that include community resources and service providers;

(7) mentor and supervise paraprofessionals;

(8) effectively collaborate with general education teachers to deliver, adapt, and differentiate instruction to address students' instructional, emotional, behavioral, and social needs;

(9) understand the strengths and limitations of various co-teaching models based on setting and the individual needs of students;

(10) effectively implement co-teaching models to deliver, adapt, and differentiate instruction to meet students' instructional, emotional, behavioral, and social needs;

(11) understand the reciprocal relationship with general education teachers for effective and inclusive practices;

(12) collaborate and consult with multi-disciplinary teams to plan and implement instruction in accordance with a student's IEP;

(13) select and develop resources to improve communication and collaboration with family and community;

(14) coordinate with related service providers and community agencies to identify and access services, resources, and supports to meet the needs of individuals with exceptionalities;

(15) engage in ongoing self-reflection to design and implement professional learning activities and advocate for improved outcomes for students with high support needs and their families, while considering their social, cultural, and linguistic diversity;

(16) set short-term and long-term professional goals based on ongoing analysis of student learning, self-reflection, and professional standards;

(17) demonstrate understanding of the barriers that exist for students with high support needs within educational settings and work with decision makers to design environments and select curriculum resources that include supports that address a range of student needs; and

(18) respectfully advocate for social, legal, and environmental changes for students and families of students with high support needs, recognizing students' multiple identified needs.

§235.133. Special Education Standards: Grades 6-12.

(a) Special Education Standards. The standards identified in this section are targeted for teachers of students who receive special education services. The standards address the discipline associated with the theory and practice of teaching students who receive special education services. The standards inform appropriate teaching techniques, methods, and teacher actions, judgments, and decisions by taking into consideration philosophical, historical, and legal foundations of special education, characteristics of students who receive special education services, understandings of the needs and strengths of students who receive special education services, and the backgrounds and interests of individual students.

(b) Legal and Ethical Guidelines. The Grades 6-12 special education teacher demonstrates knowledge of all applicable state and federal laws, including Individuals with Disabilities Education Act (IDEA) of 2004; Section 504 of the Rehabilitation Act of 1973; The Americans with Disabilities Act (ADA) of 1990 and ADA Amendments Act (ADAAA) of 2008; Texas Education Code specific to students with disabilities; and Texas Administrative Code specific to students with disabilities; and Family Education Rights and Privacy Act. The Grades 6-12 special education teacher must:

(1) demonstrate knowledge of the major state and federal legislation (e.g., IDEA, Section 504, ADA, ADAAA) that has affected knowledge and practice of the education of individuals with high support needs;

(2) demonstrate knowledge of the history of exclusion of and discrimination against people with disabilities;

(3) demonstrate knowledge of IDEA 2004 eligibility categories;

(4) demonstrate knowledge of all required components of an Individual Transition Plan (ITP) as outlined in federal and state law;

(5) demonstrate knowledge of all required components of an Individualized Education Program (IEP) as outlined in federal and state law;

(6) demonstrate knowledge of all sections of the special education legal folder and where to store required documentation;

(7) demonstrate knowledge of the legal responsibility of all school staff to fully implement an IEP;

(8) demonstrate knowledge of the legal responsibility of all teachers and school staff to protect the confidentiality and dignity of students with disabilities;

(9) demonstrate knowledge of graduation options for students with disabilities receiving special education services according to §89.1070 of this title (relating to Graduation Requirements);

(10) demonstrate knowledge of the federal requirements for transfer of rights at the age of majority;

(11) demonstrate knowledge of the state and federal requirements for transition planning beginning at the age of 14;

(12) demonstrate knowledge of the special education teacher's roles and responsibilities regarding Child Find;

(13) demonstrate knowledge of the special education teacher's roles and responsibilities in creating and implementing the IEP with fidelity, including monitoring student IEP goal progress, implementing data collection of IEP goal progress, and reporting progress to the student and parents/guardians throughout the IEP year;

(14) use a variety of assessment data to write annual measurable goals and present levels of academic achievement and functional performance and to identify appropriate accommodations (academic, behavior, state, and district testing) and modifications based on individual student needs, and contribute to drafting the IEP;

(15) maintain student legal folders and store ongoing documentation according to local education agency (LEA) requirements and keep records to document receipt of the IEP by all required school staff;

(16) audit student class schedules to ensure compliance with least restrictive environment and schedule of services in the IEP;

(17) schedule and facilitate ongoing transition activities to prepare students for postsecondary living according to the IEP;

(18) demonstrate knowledge of the role and responsibilities of the special education teacher in preparing for an Admission, Review, Dismissal (ARD) committee meeting, including collecting required data, interpreting the results of progress monitoring and classroom assessment data, and visually representing and interpreting data to show student progress;

(19) demonstrate knowledge of the roles and responsibilities of the required members of an ARD committee;

(20) demonstrate knowledge of the required components of a typical ARD committee meeting agenda;

(21) interpret the results of a variety of assessment data (classroom, state and district transition assessment) in plain language to explain student progress on annual IEP goals and mastery of grade level standards to the ARD committee members;



(22) prepare and support students in leading ARD committee discussion regarding progress on IEP goals, mastery of grade level standards, appropriate accommodations (academic, behavior, state, and district assessment), transition needs and goals, and other supplements as needed;

(23) apply knowledge of individuals served through special education as well as special education laws and policies to facilitate and advocate for students' full participation in their education;

(24) demonstrate understanding that students served through special education may also have other special populations identifiers (i.e., gifted and talented, English learner, highly mobile and at risk, and dyslexia);

(25) advocate for student participation in the IEP, ARD meetings, and transition plan;

(26) foster and support students in their development of self-reliance and self-advocacy;

(27) apply knowledge of IEP transition activities to build students' readiness for postsecondary transition;

(28) advocate for high academic and behavioral expectations for students with disabilities; and

(29) demonstrate understanding that individuals with high support needs deserve to be challenged with high expectations and provided with meaningful and inclusive participation opportunities to develop the highest possible learning outcomes.

(c) Understanding and Addressing Each Individual's Developmental and Learning Needs. The Grades 6-12 special education teacher must:

(1) demonstrate knowledge about relevant physical and emotional development for early adolescence through early adulthood;

(2) demonstrate knowledge of how specific developmental characteristics of the teenage brain impact learning (e.g., decision-making, problem-solving, impulse control, and relationships);

(3) understand the impact of exceptionalities on developmental milestones, executive functioning, and social skills;

(4) demonstrate understanding that students with all support needs may also come from a different cultural background, may speak other languages than those of the dominant culture, or may come from a unique racial or ethnic group;

(5) demonstrate knowledge of the multiple biological, physical, psychological, and social influences that affect learning and development when working with individuals with high support needs;

(6) demonstrate knowledge of strategies to support students' development and independence given relevant grade level expectations for academic and behavior for students in Grades 6-12;

(7) apply a variety of evidence-based, age-appropriate classroom routines and procedures that support individual developmental and learning needs;

(8) demonstrate knowledge of a variety of assistive technologies to support individual developmental and learning needs;

(9) demonstrate knowledge of how developmental academic, social, and functional characteristics of individuals with high support needs impact levels of support needs;

(10) apply knowledge of evidence-based practices to identify and intervene when students are not making progress in functional, academic, or behavioral goals; and

(11) demonstrate the knowledge and ability to adapt instruction when students with high support needs do not meet milestones.

(d) Subject Matter Content and Specialized Curricular Knowledge. The Grades 6-12 special education teacher must:

(1) demonstrate a foundational knowledge of content specific TEKS and College and Career Readiness Standards (CCRS) appropriate for students in Grades 6-12;

(2) apply content-specific knowledge to develop individualized goals and objectives that are aligned with the appropriate grade-level TEKS and CCRS;

(3) design appropriate learning and performance accommodations and modifications for students with exceptional learning needs in academic subject matter content of the general curriculum;

(4) apply content-specific knowledge to modify and differentiate instruction as well as provide access to instructional materials for a wide range of student performance levels;

(5) apply understanding of the subject matter TEKS and specialized curricula to inform programmatic and instructional decisions for students with high support needs;

(6) understand how to identify a learner's preferred mode of communication;

(7) demonstrate content-specific knowledge at a level necessary for students with exceptionalities to progress in their individualized programs toward completion of a range of graduation plans;

(8) apply knowledge of individual learner characteristics and specialized curricula knowledge to accommodate, modify, and/or adapt curricula across contexts;

(9) demonstrate knowledge of how to integrate appropriate instructional and assistive technology for students in Grades 6-12;

(10) apply knowledge of individual learner characteristics and specialized curricula knowledge to accommodate, modify, and/or adapt the curricula across contexts;

(11) demonstrate knowledge of specialized curricula that may include curriculum for social skills, life skills, transition, orientation and mobility, independence curricula, and self-advocacy;

(12) demonstrate knowledge of families, culture, and community when involving paraprofessionals, general educators, and specialists, to make content and instruction accessible and challenging for students at all levels of support needs;

(13) demonstrate knowledge of how to provide modified access to subject-specific instructional materials to address individual learner needs in different contexts such as center-based, home-based, and school-based classrooms, including specialized and general classrooms; and

(14) recognize barriers to accessibility and acceptance of individuals with high support needs and plan for ways to address those barriers through the implementation of specialized curricula.

(e) Assessment for Data-based Decision Making. The Grades 6-12 special education teacher must:

(1) demonstrate knowledge of different forms of assessment, their purposes, and their application to inform development of IEP and to plan instruction;

(2) assess students' learning, behavior, and the classroom environment in order to evaluate and support classroom and school-based, problem-solving systems of intervention and instruction;

(3) use data from a variety of formative and summative assessments to identify learning goals, plan and adapt instruction, and monitor progress toward the learning goals;

(4) demonstrate knowledge of how to implement, collect data from, and keep records of ongoing formative assessment;

(5) use the results of multiple assessments to determine if a student is making adequate progress toward measurable outcomes;

(6) use assessment results to design, adjust, plan, and inform instruction or intervention;

(7) accurately interpret the results of various forms of assessments, including state assessments and district benchmark assessments;

(8) accurately analyze, interpret, and discuss the results of a variety of evaluation data for an individual student;

(9) interpret a variety of evaluation data including measures of student functioning, and educational, physical, and medical needs;

(10) identify, recommend, and implement appropriate accommodations and/or modifications for classroom, behavior, state, and district testing or other assessments as determined by the ARD committee;

(11) provide feedback to stakeholders regarding student performance on assessments and interpret assessment results in plain language for parents and students;

(12) administer, interpret, and gather baseline data from screening instruments and diagnostic reading, mathematics, and behavior assessments;

(13) use the results of multiple assessments to determine students' transition needs;

(14) support students in understanding their own assessment data and using those results to self-monitor and self-regulate; and

(15) collaborate with professionals with additional expertise as needed (e.g., English as a second language specialists, bilingual specialists, translators, speech and language pathologists, behavior specialists) to ensure an appropriate and valid assessment process.

(f) Supporting Learning Using Effective Instruction. The Grades 6-12 special education teacher must:

(1) demonstrate knowledge of how to plan instruction according to the requirements of an IEP, including use of supplements, technology, assistive technology, and related services;

(2) demonstrate knowledge of the key differences between IEP accommodations and modified curriculum;

(3) design instruction to meet the individual needs of a diverse group of students based on information from various types of formative and summative assessments;

(4) plan for strategic integration of technology and assistive technology into daily teaching practices based on student developmental and learning needs;

(5) use knowledge of the learning processes of adolescents and teenagers to select, adapt, and apply instructional strategies that meet the needs of individual students and support transition goals;

(6) use explicit, scaffolded, systematic instruction to teach content, strategies, and skills;

(7) design individualized instruction that adapts instructional intensity and/or intervention to build on students' strengths and accommodate needs;

(8) provide specific, developmentally appropriate, and explicit feedback to students during instruction to engage, motivate, and support students toward mastery;

(9) plan and integrate transition-focused activities into classroom instruction;

(10) create opportunities for students to demonstrate their knowledge and skill using different modalities and allow every individual to advance as they demonstrate their understanding;

(11) apply knowledge of developmentally appropriate instructional strategies to engage, motivate, and promote learning specific to the needs of adolescents and teenagers with exceptionalities;

(12) apply knowledge of the learning processes of adolescents and teenagers to select and use a variety of grouping strategies (e.g., whole group, small group, individual) to meet the learning needs of each student;

(13) promote the generalization of concepts and skills across content areas and educational settings;

(14) design visual supports to promote student mastery of curriculum, executive functioning, and classroom procedures;

(15) adapt instruction and make regular changes based on data from assessments;

(16) demonstrate an understanding of the continuum of instructional settings and of how to engage individuals with high support needs in inclusive, meaningful learning activities across instructional settings;

(17) apply knowledge of the Universal Design for Learning Guidelines to create and incorporate strategies for making content and instruction accessible and challenging for individuals with high support needs;

(18) apply knowledge of students, content, and pedagogy to develop, implement, evaluate, and revise instruction and interventions as needed;

(19) demonstrate understanding of the potential impacts of modified curriculum on a student's graduation plan;

(20) use strategies to promote active student engagement;

(21) demonstrate a thorough knowledge of the learning processes of adolescents and teenagers; and

(22) demonstrate understanding of the importance of digital citizenship and the vulnerability of youth with exceptionalities to social media influences.

(g) Supporting Social, Behavioral, and Emotional Growth. The Grades 6-12 special education teacher must:

(1) design effective and universally accessible environments and learning experiences appropriate for students in Grades 6-12;

(2) demonstrate knowledge of a range of preventative and responsive practices, appropriate for students, ages 11-22, that contribute to a positive and safe learning environment;

(3) demonstrate knowledge of classroom and schoolwide systems of Positive Behavioral Intervention and Supports (PBIS);

(4) demonstrate knowledge of the key components and purposes of a Functional Behavioral Assessment (FBA);

(5) demonstrate knowledge of the key components and purposes of a Behavior Intervention Plan (BIP);

(6) demonstrate knowledge of the key components and purposes of restorative discipline practices;

(7) create an environment in which expectations are clear and predictable and instructional routines and classroom procedures are used to support and actively engage students;

(8) use effective procedures and routines, appropriate to students in Grades 6-12 to facilitate safe and efficient transitions, promote independence, self-regulation, and executive functioning;

(9) use effective procedures and routines to create a physically safe, relationship-driven, and organized learning environment with access to materials, instruction, and content that facilitates social communication with peers and staff;

(10) establish, explicitly teach, and maintain clear expectations for student behavior;

(11) demonstrate knowledge of research-based de-escalation strategies to effectively address aggressive behavior;

(12) build positive relationships with students based on understanding of individual strengths and needs, high expectations, and mutual respect and rapport;

(13) create an atmosphere of safety that encourages social, emotional, and physical well-being of staff and students;

(14) use sources of data, such as the BIP, to identify or develop effective, evidence-based, and, whenever possible, antecedent and function-based practices for class-wide or individual-level interventions;

(15) analyze progress monitoring data as defined in the BIP to evaluate the effects of behavioral interventions;

(16) consider multiple avenues of intervention and reinforcement techniques such as class-wide and/or individual-level interventions;

(17) use FBA to collect data and analyze and utilize the data to design behavior intervention;

(18) conform to legal and ethical guidelines for all behavioral interventions;

(19) demonstrate knowledge of the impact of behavior on the learning of students and classmates;

(20) understand how factors, including family, community, exceptionalities, and trauma impact student behavior in the learning environment;

(21) provide positive and constructive-specific, developmentally-appropriate, and explicit feedback to guide student behavior;

(22) demonstrate knowledge and apply principles of Applied Behavior Analysis (ABA);

(23) demonstrate knowledge of how to find appropriate school and community supports for students who need social, physical, and/or emotional learning support; and

(24) take active measures to prevent bullying, maltreatment, violence, and sexual assault and report any instances through appropriate channels.

(h) Professional Learning and Collaboration. The Grades 6-12 special education teacher must:

(1) demonstrate knowledge of the roles and responsibilities of the Grades 6-12 special education teacher and of other professionals who deliver special education services;

(2) collaborate with paraprofessionals to identify and define the responsibilities, skills, and professional development needed for their roles;

(3) collaborate in a culturally responsive manner with families, paraprofessionals, and other professionals to lead effective meetings that address students' instructional and behavioral needs;

(4) consult with campus staff and/or colleagues about strategies, supports, and implementation of IEPs;

(5) coordinate with service providers and build student schedules;

(6) implement transition activities in the IEP that include community resources and service providers;

(7) mentor and supervise paraprofessionals;

(8) effectively collaborate with general education teachers to deliver, adapt, and differentiate instruction to meet the instructional, emotional, behavioral, and social needs of individual students;

(9) understand the strengths and limitations of various co-teaching models based on setting and the individual needs of students;

(10) understand the reciprocal relationship with general education teachers for effective and inclusive practices;

(11) collaborate and consult with multi-disciplinary teams, including career and technical education, electives, and extracurriculars, to plan and implement instruction in accordance with a student's IEP;

(12) select and develop resources to improve communication and collaboration with family and community;

(13) coordinate with instructional and related service providers and community agencies to identify and access services, resources, and supports to meet the needs of individuals with exceptionalities;

(14) collaborate with community service providers to address transition needs in accordance with the IEP and the ITP;

(15) demonstrate knowledge of the key components of different employment models and how to provide access to community-based instruction, and vocational training;

(16) engage in ongoing self-reflection to design and implement professional learning activities and advocate for improved outcomes for students with high support needs and their families, while considering the social, cultural, and linguistic diversity of students;

(17) set short-term and long-term professional goals based on ongoing analysis of student learning, self-reflection, and professional standards;

(18) demonstrate understanding of the barriers that exist for students with high support needs within educational settings and work with decision makers to design environments and select curricu-

lum resources that include supports that address a range of student needs; and

(19) respectfully advocate for social, legal, and environmental changes for students and families of students with high support needs, recognizing students' multiple identified needs.

§235.135. DeafBlind Standards: Early Childhood-Grade 12.

(a) DeafBlind Standards. The standards identified in this section are targeted for teachers of students who are DeafBlind. The standards address the discipline associated with the theory and practice of teaching students who are DeafBlind. The standards inform appropriate teaching techniques, methods, and teacher actions, judgments, and decisions by taking into consideration philosophical, historical, and legal foundations of DeafBlind education, characteristics of students who are DeafBlind, understandings of the needs and strengths of students who are DeafBlind, and the backgrounds and interests of individual students.

(b) Foundations. The teacher of students who are DeafBlind understands the philosophical, historical, and legal foundations of DeafBlind education. The teacher of students who are DeafBlind:

(1) understands interaction, communication, and language theories, approaches, and research that are applicable to teaching learners who are DeafBlind;

(2) understands the history of the practices, people, and events that have impacted people who are DeafBlind (congenital and acquired) and the relevance of those histories to educational practices;

(3) understands access and inclusion from the visual, auditory, and tactile perspective of a person who is DeafBlind;

(4) understands specialized roles and responsibilities of the educational team members, including learners who are DeafBlind, teachers of students who are DeafBlind, other educators, related service personnel, and family members;

(5) understands the rights of learners who are DeafBlind and their family members;

(6) understands clinical, functional, and legal definitions for eligibility of services as students who are DeafBlind/Blind/Visually Impaired/Deaf/Hard of Hearing;

(7) accesses and evaluates current related research and practices in the field of DeafBlindness for their relevance in educational practices;

(8) educates, facilitates, and collaborates with all educational team members, including family members, to ensure that the student's unique needs are being supported by all necessary team members during evaluation and instruction in home, school, and/or community settings;

(9) ensures that the educational team considers proper eligibility criteria for the student who is DeafBlind;

(10) establishes reciprocal interactions with learners who are DeafBlind; and

(11) advocates for effective individualized interaction, communication, and language development.

(c) Learner Characteristics. The teacher of students who are DeafBlind demonstrates understanding of the complex and unique effects of the combined vision and hearing loss as well as the strengths of the tactile sense of learners who are DeafBlind. The teacher of students who are DeafBlind:

(1) understands the positive perspective of the learner who is DeafBlind, including functional hearing and vision as well as the experience of touch;

(2) understands typical child development and methods for supporting a child who is DeafBlind throughout the various stages of development;

(3) understands the critical roles of vision, hearing, and touch in learning;

(4) understands the range of vision and hearing loss of learners who are DeafBlind;

(5) understands the diversity within the culture of learners who are DeafBlind;

(6) understands the implications of combined sensory loss and the importance of the tactile sense on access to information and the environment;

(7) understands the potential isolating effects of combined hearing and vision loss upon the learner who is DeafBlind;

(8) understands the potential impact of the combined effects of hearing and vision loss upon the learner's opportunities for incidental learning;

(9) understands the potential emotional implications of combined hearing and vision loss upon the learner who is DeafBlind, including the biological impact of stress;

(10) understands the potential impact of the combined effects of hearing and vision loss and the tactile experience upon the learner's personal relationships with others, including the importance of sensory-attuned reciprocal interactions, on bonding, attachment, inclusion, and friendships;

(11) understands the potential and complex effects of additional disabilities upon learners who are DeafBlind;

(12) understands the potential and complex effects of additional sensory disabilities (e.g., touch, vestibular, proprioception, taste, smell) upon learners who are DeafBlind;

(13) understands the potential effects of the age of onset (congenital vs. acquired), degrees, and/or progression of hearing and vision loss upon learners who are DeafBlind;

(14) understands the major etiologies of DeafBlindness and the possible implications on the learner who is DeafBlind;

(15) understands the potential impact of the combined effects of vision and hearing loss and tactile accessibility upon the development of concrete and abstract concepts;

(16) understands dynamic forms/modes of communication used by learners who are DeafBlind (i.e., body movements, gestures, bodily emotional traces (BETS), Visual American Sign Language (VASL), VASL adaptations, Signing Exact English (SEE), Tactile American Sign Language (TASL), speech, other manual modes);

(17) understands static forms/modes of literacy, including real objects, tactile symbols, pictures, print, braille, and digital technology;

(18) understands the structure and function of the auditory, visual, and tactile systems;

(19) understands impairments in the structure and functions of the auditory and visual systems;

(20) understands the influence of vision and hearing loss on tactile and sensorimotor development;

(21) understands the learner's social history and its impact on the learner's current biology and physiology;

(22) effectively explains the impact of the combined effects of hearing and vision loss and tactile accessibility to the educational team in relation to typical development; and

(23) guides the educational team to ensure the development of communication-rich environments that support sensory-appropriate modes of social engagement within the context of developmentally-, age-, and grade-appropriate functional and meaningful activities.

(d) Evaluation and Assessment. The teacher of students who are DeafBlind understands the educational evaluation and assessment processes to identify learner strengths and needs and applies appropriate formal and informal evaluation strategies to support the continuous development of all students, from birth through age 22. The teacher of students who are DeafBlind:

(1) understands the legal protocol for administering evaluations relative to his or her certification as a teacher of students with visual impairments and/or teacher of students who are Deaf/hard of hearing;

(2) understands evaluation of communication modes/forms along a continuum from pre-intentional and pre-symbolic to formal communication and language used by learners who are DeafBlind;

(3) understands the importance of a functional sensory evaluation as a foundation for accommodations, adaptations, and strategies;

(4) understands how to interpret functional evaluations and clinical assessments of vision, hearing, and medical/neurological information with reference to etiology;

(5) understands the specialized tools needed to perform evaluations of hearing and vision;

(6) understands the child-guided approach for evaluation of learners who are DeafBlind;

(7) understands the evaluation of the Expanded Core Curriculum (ECC) for learners who have visual impairment, including those learners who are DeafBlind and with additional disabilities;

(8) understands how to identify a learner's preferred mode of communication;

(9) understands strategies for supporting the learner's educational team in determining appropriate modifications and accommodations of evaluations and state-mandated assessments and interpreting the assessment results based on individual learning characteristics;

(10) collaborates with the educational team using learner-centered evaluations and planning processes to determine appropriate program planning, instruction, and setting;

(11) conducts evaluations and ensures evaluations/assessments conducted by others are in the preferred mode(s) of communication for the individual learner who is DeafBlind;

(12) evaluates in co-active, child-guided, functional routines and motor sequences, as appropriate for the learner who is DeafBlind;

(13) evaluates or actively participates in conducting the functional vision evaluation, learning media assessment, communication evaluation, functional hearing evaluation, and ECC evaluation of the learner who is DeafBlind;

(14) evaluates or actively participates in evaluating the communicative intent related to observable behavior of the learner who is DeafBlind;

(15) assesses and adapts to learners' pace/timing of communication;

(16) evaluates or actively participates in evaluating communication along a continuum from pre-intentional and pre-symbolic to formal communication and language used by learners who are DeafBlind;

(17) evaluates and interprets or actively participates in determining the meaning and function of the learner's formal and informal literacy medium/media;

(18) evaluates, interprets, and affirms the meaning of the learner's communicative initiatives (e.g., natural gestures, affect, bodily movements, vocalizations);

(19) evaluates with consideration of physical environments, bio-behavioral states, and preferred/non-preferred sensory channels of the learner who is DeafBlind;

(20) actively participates in the evaluation of tactile, proprioceptive, vestibular, and kinesthetic systems of the learner who is DeafBlind;

(21) interprets evaluation results and explains current and future implications of combined vision and hearing loss of the learner to the educational team, including family members;

(22) determines appropriate modifications and accommodations of evaluations and state-mandated assessments and supports the interpretation of the results based on individual learning characteristics;

(23) recommends the learner for additional visual and auditory evaluations/assessments when necessary; and

(24) explains the effects of specific etiologies on all sensory systems.

(e) Planning for Instruction. The teacher of students who are DeafBlind plans for instructional opportunities in home, school, and community environments that are adapted to the diverse needs of learners who are DeafBlind. The teacher of students who are DeafBlind:

(1) understands the pacing and structure of programming for short- and long-term objectives within the context of functional routines for learners who are DeafBlind;

(2) understands how to include or introduce novelty into familiar routines based on the individual needs of learners who are DeafBlind;

(3) understands the elements of planning for life-long learning in current and future environments for students who are DeafBlind;

(4) understands the importance of creating lesson plans that provide direct sensory experiences for learners who are DeafBlind;

(5) understands appropriate instructional accommodations and modifications for learners who are DeafBlind;

(6) understands the process for the development of a shared formal language with learners who are DeafBlind, based upon the learners' unique needs when planning instruction;

(7) understands the need for learners who are DeafBlind to have competent communication partners who are present and actively engaged in all activities and settings;

(8) understands how to incorporate appropriate assistive technology that enhances auditory, visual, and/or tactile functioning;

(9) understands how to select the visual, auditory, and tactile characteristics of materials needed by learners who are DeafBlind;

(10) understands how to incorporate student preferences to design motivating instructional activities;

(11) gathers, maintains, and shares descriptive records/portfolios of the learner's communication repertoire across all settings to assess strengths, challenges, and progress;

(12) plans additional time for tactual modeling and exploration;

(13) plans additional time for individual learner processing and response;

(14) based on learner needs, plans instruction that includes the appropriate literacy system(s);

(15) plans extra time for conversations that facilitate the learner's anticipation of a change in routine or schedule;

(16) creates opportunities for turn-taking and serve-and-return conversational exchanges in all interactions and instructional settings;

(17) plans time for choice-making opportunities in multiple instructional settings;

(18) acquires devices and materials that are required for each lesson;

(19) obtains, operates, and maintains assistive technology related to vision and hearing; and

(20) adapts materials to accommodate for multi-sensory needs.

(f) Learning Environment. The teacher of students who are DeafBlind understands individual and group motivation and behavior in order to create a positive learning environment that encourages social interaction, active engagement, and joy of learning. The teacher of students who are DeafBlind:

(1) understands the array of learning environments within different service delivery models;

(2) understands the importance of competent communication partners who can interact with the learner who is DeafBlind to match his/her mode of communication;

(3) understands how to facilitate a multi-modal learning environment by using the learner's functional hearing and/or vision, while also promoting the bodily/tactile sense, as prime components of information gathering and expression;

(4) understands the potential for elements in the environment to be perceived as stressful by the learner who is DeafBlind and the impact that may cause to his/her biology;

(5) assists others in the development of trusting relationships and in becoming competent communication partners with the learner who is DeafBlind;

(6) facilitates communication and interaction to provide social and environmental access for the learner who is DeafBlind;

(7) makes appropriate adaptations to enhance the learner's auditory, visual, and tactile functioning in a variety of environments;

(8) uses appropriate assistive technology to promote the learner's access, participation, and independence;

(9) selects, adapts, recommends, or implements classroom management strategies that reflect understanding of the individual learner's needs;

(10) promotes an environment that allows learners to orient themselves, move safely, and interact positively with peers;

(11) promotes an environment that feels predictable and safe for the learner who is DeafBlind;

(12) reduces or eliminates unnecessary visual, auditory, and tactile clutter in the learning environment; and

(13) adapts the learning environment by considering the impact of the elements of the learning environment (e.g., glare, lighting, auditory input, seating position) on the learner.

(g) Instructional Delivery. The teacher of students who are DeafBlind emphasizes individual student potential and uses a variety of instructional strategies to encourage the learner's feelings of connectedness, success, and independence in order to promote development of critical-thinking and problem-solving skills in both the academic and expanded core curriculum to the greatest degree possible. The teacher of students who are DeafBlind:

(1) understands how to create learning experiences to make content meaningful for each learner who is DeafBlind;

(2) understands co-active teaching principles and practices that support the competencies of the learner who is DeafBlind;

(3) understands attachment theories of human learning that support the importance of reciprocal emotional involvement and basic trust;

(4) understands the importance of learners who are DeafBlind having control and influence over their own lives as an essential aspect of well-being;

(5) understands the developmental phases of dyadic interaction between the adult and the learner who is DeafBlind;

(6) understands the developmental phases of triadic interaction in the shared partnership between the adult, the learner who is DeafBlind, and the external world;

(7) understands how to support the development of positive self-esteem in the learner who is DeafBlind;

(8) understands visual, auditory, and tactile adaptations that enhance social/communicative interactions between the learner who is DeafBlind and others;

(9) understands the use of augmentative communication devices and other assistive technology that are appropriate for the learner who is DeafBlind;

(10) understands various instructional strategies specific to and/or adapted for learners who are DeafBlind;

(11) understands the development of language and literacy in the communication mode(s) of learners who are DeafBlind;

(12) understands the basic principles of orientation and mobility for learners who are DeafBlind;

(13) understands how to adapt and scaffold the general education curriculum for learners who are DeafBlind;

(14) understands curricula specific to and/or adapted for learners who are DeafBlind, including all areas of the expanded core curriculum;

(15) applies co-active teaching strategies with the learner who is DeafBlind in daily routines, as appropriate;

(16) applies tactile learning strategies in functional and play activities, as appropriate;

(17) provides opportunities for the learner's increased proprioceptive and kinesthetic awareness during daily routines and planned activities;

(18) provides opportunities for the learner to develop confidence by making choices;

(19) provides the learner with opportunities for self-advocacy;

(20) creates opportunities for learners to initiate conversations in their preferred communication mode about their topics of interest;

(21) determines and uses optimal proximity for access between the learner and communication partner(s);

(22) determines optimal proximity of the learner in relation to others that will enhance participation in group activities;

(23) identifies him- or herself and uses salutation rituals in the mode appropriate to initiate and end interactions;

(24) acts as a bridge in order to provide access to information about the environment, other interactions, and events taking place around the learner who is DeafBlind;

(25) provides opportunities for the learner who is DeafBlind to observe (auditorily, visually, or tactually) conversations or interactions between others;

(26) provides opportunities for co-created topics of instruction based on the learner's mode of communication and interests;

(27) provides multi-modal opportunities in order to support the organization of events and the formation of mental images and holistic concepts for the learner who is DeafBlind;

(28) uses scaffolding within the context of academic and functional routines to provide consistent and predictable experiential instruction for the learner who is DeafBlind;

(29) develops and implements communication systems appropriate to the mode and developmental level of the learner who is DeafBlind;

(30) uses formal language and literacy systems, as appropriate, to provide visual, tactile, and/or auditory access;

(31) selects and prioritizes receptive and expressive vocabulary that is meaningful and motivating to the learner;

(32) develops strategies to encourage the learner to use multiple static and dynamic modes/forms of communication;

(33) provides multiple opportunities to use and expand vocabulary through frequent and natural conversations;

(34) modifies existing literacy materials to adjust for the learner's language level and reading media;

(35) designs and makes low-tech communication devices that are appropriate to the learner's needs;

(36) selects and/or adapts assistive technology devices as tools for communication or to meet other learner needs;

(37) provides opportunities for the learner to use augmentative communication devices in a variety of environments and with a variety of communication partners, as appropriate;

(38) uses naturally occurring events for the learner to use and practice communication skills;

(39) recommends appropriate positioning to optimize visual, auditory, and tactile functioning;

(40) implements strategies to accommodate for and to improve the learner's visual, auditory, and tactile functioning based upon evaluation results;

(41) supports spatial orientation strategies for the learner who is DeafBlind;

(42) supports mobility techniques appropriate to the learner who is DeafBlind;

(43) supports the learner who is DeafBlind to develop his/her awareness of kinesthetic and proprioceptive sensory systems as they relate to the body in the environment;

(44) based upon clinical and functional evaluations, uses and creates materials that will maximize the learner's use of vision, hearing, and touch in specific situations to meet the learner's visual, auditory, and tactile needs; and

(45) incorporates language and literacy as part of everyday activities, according to the learner's experiences and interests.

(h) Collaborative Consultation. The teacher of students who are DeafBlind has knowledge of effective written, verbal, and visual communication techniques to foster active inquiry, collaboration, instructional coaching, and supportive interaction among professionals, family members, interveners, paraeducators, and learners who are DeafBlind. The teacher of students who are DeafBlind:

(1) understands the importance of gathering and sharing the social history of each learner who is DeafBlind and the effect it has on biological and developmental needs, including bonding and attachment with family members and primary caregivers;

(2) understands the role of the intervener for individual learners who are DeafBlind to assure that the learner has optimal access to opportunities for receptive and expressive communication, peer-to-peer interactions, and the development of shared meanings;

(3) understands the effective use of instructional coaching strategies to support the educational team;

(4) understands how to access appropriate resources that provide technical assistance at the local, state, and national levels related to the field of DeafBlindness;

(5) understands how to access appropriate resources for home and community services and supports for learners who are DeafBlind and their families;

(6) interprets and explains evaluation results to the learner's educational team members, including the learner's stage of developmental communication and implementation of strategies that support positive interactions in order to build an environment that promotes bonding, attachment, and a sense of safety;

(7) provides information and education to educational team members, including family members, about the uniqueness of DeafBlindness;

(8) promotes family engagement opportunities to connect families with educational, social, and peer support within school and community settings;

(9) provides appropriate opportunities for peer-to-peer and group interactions with other individuals who are Deafblind;

(10) promotes the exchange of information about the learner's communication mode(s) and developmental stages with other educational team members to ensure consistency of interpretation and use of the learner's communication system;

(11) works with the educational team to ensure appropriate instruction is provided to peers and adults to communicate effectively with the learner in the learner's preferred communication mode;

(12) collaborates with educational team members to facilitate understanding of the roles and responsibilities of the intervener and to use the intervener model according to the needs of the learner in multiple environments;

(13) coaches the intervener and provides training to support the intervener's role and responsibilities related to the needs of the learner;

(14) recommends appropriate referrals to other specialists in collaboration with educational team members to assess the need for assistive devices or additional evaluations;

(15) collaborates with orientation and mobility specialists and other appropriate specialists in adapting strategies to support the learner in moving safely and independently;

(16) collaborates with the educational team to identify and provide support related to the learner's access to the general education curriculum;

(17) guides the educational team to consider appropriate modifications and accommodations needed for the learner who is DeafBlind;

(18) consults and collaborates with community partners and family organizations who provide care, education, early intervention services, and/or adult services to individuals who are DeafBlind;

(19) provides training to caregivers, school personnel, and peers that will improve the quality of their interactions/relationships with the learner who is DeafBlind;

(20) works with the learner's educational team to create a transition plan for the learner who is DeafBlind that includes opportunities for a high quality of life beyond the educational setting; and

(21) develops and implements communication systems appropriate to the mode and developmental level of the learner who is DeafBlind.

(i) Professional Conduct and Leadership. The teacher of students who are DeafBlind understands teaching as a profession, maintains standards of professional conduct, adheres to ethical and equitable practices, and provides leadership to improve students' learning and well-being. The teacher of students who are DeafBlind:

(1) understands special education laws as they relate to students who are DeafBlind;

(2) understands how appropriate placement and services are determined for students who are DeafBlind;

(3) understands how appropriate service intensity is determined;

(4) understands the professional code of ethics for special educators and how it applies to his/her role;

(5) advocates for learners who are DeafBlind and their families to obtain high-quality services ranging from early intervention to transition to adult services;

(6) serves as the team lead for the entire instructional team, including family members, to facilitate education, support, and collaboration in the areas unique to DeafBlindness;

(7) demonstrates professional ethics and etiquette across all settings; and

(8) demonstrates cultural competence across all settings.

(j) Reflection and Professional Growth. The teacher of students who are DeafBlind is a reflective practitioner who has knowledge of systems, available resources, organizations, and services for students who are DeafBlind; who continually evaluates how teacher choices and actions affect learners, family members, and other professionals in the learning community; and who actively seeks ongoing opportunities to grow professionally. The teacher of students who are DeafBlind:

(1) understands local, regional, state, and national initiatives related to the field of DeafBlindness;

(2) understands the role of communities of practice in enhancing professional growth;

(3) understands the professional organizations related to the field of DeafBlindness and the benefits of memberships therein;

(4) understands the importance of professional development and its positive impact on effective practice;

(5) understands the value of ongoing reflection as a practice to improve instructional effectiveness;

(6) participates in local, regional, state, and national efforts related to the field of DeafBlindness;

(7) connects with other professionals within the field of DeafBlindness through a variety of sources, including professional organizations that focus on DeafBlindness;

(8) joins communities of practice related to the field of DeafBlindness;

(9) participates in professional development opportunities and applies the information to his or her practice; and

(10) regularly utilizes self-evaluation and intentional reflection on instructional practices and adjusts strategies accordingly.

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 18, 2020.

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Cristina De La Fuente-Valadez

Director, Rulemaking

State Board for Educator Certification

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For further information, please call: (512) 475-1475



## **TITLE 22. EXAMINING BOARDS**

### **PART 22. TEXAS STATE BOARD OF PUBLIC ACCOUNTANCY**



## CHAPTER 511. ELIGIBILITY

### SUBCHAPTER C. EDUCATIONAL REQUIREMENTS

#### 22 TAC §511.57

The Texas State Board of Public Accountancy (Board) proposes an amendment to §511.57, concerning Qualified Accounting Courses.

##### Background, Justification and Summary

Many accredited higher educational institutions in Texas are offering more and more online electronic learning in order to reach more students not able to attend an in-person class room. Travel from remote locations to an educational institution and working parents whose schedules don't line up with the times in-person classes are offered make higher education for many persons unattainable. In addition, online classroom education has proved beneficial during national and state-wide emergencies and natural disasters.

Board rules currently require an applicant to take the Certified Public Accountancy Exam to have a minimum of 15 classroom hours of advanced accounting courses in order to be eligible to take the exam. The Board believes that it is in the best interest of the people of this state to recognize online education from accredited higher educational institutions for purposes of eligibility to take the CPA exam. The proposed rule revision would eliminate the requirement that an applicant to take the CPA exam be required to have 15 hours of in-person classroom instruction.

##### Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the amendment.

##### Public Benefit

The adoption of the proposed amendment will be to provide higher education to more qualified persons in this state.

##### Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the amendment and a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

##### Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed amendment will not have an adverse economic effect on small businesses, rural communities or micro-businesses because the amendment does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

##### Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the amendment is in effect, the proposed rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase

or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; limits the existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not adversely affect the state's economy.

##### Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed rule revision.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

##### Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 333 Guadalupe, Tower 3, Suite 900, Austin, Texas 78701 or faxed to his attention at (512) 305-7854, no later than noon on June 29, 2020.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses. If the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental, and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

##### Statutory Authority

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code, §901.151 which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

##### §511.57. *Qualified Accounting Courses.*

(a) An applicant shall meet the board's accounting course requirements in one of the following ways:

(1) Hold a baccalaureate or higher degree from a board-recognized institution of higher education as defined by §511.52 of this title (relating to Recognized Institutions of Higher Education) and present valid transcript(s) from board-recognized institution(s) that show degree credit for no fewer than 30 semester credit hours of upper division accounting courses as defined in subsection (e) of this section; or

(2) Hold a baccalaureate or higher degree from a board-recognized institution of higher education as defined by §511.52 of this title, and after obtaining the degree, complete the requisite 30 semester credit hours of upper division accounting courses, as defined in subsection (e) of this section, from four-year degree granting institutions, or accredited community colleges, provided that all such institutions are recognized by the board as defined by §511.52 of this title, and that the

accounting programs offered at the community colleges are reviewed and accepted by the board.

(b) Credit for hours taken at board-recognized institutions of higher education using the quarter system shall be counted as 2/3 of a semester credit hour for each hour of credit received under the quarter system.

(c) The board will accept no fewer than 30 semester credit hours of accounting courses from the courses listed in subsection (e)(1) - (14) of this section. The hours from a course that has been repeated will be counted only once toward the required 30 semester hours. The courses must meet the board's standards by containing sufficient business knowledge and application to be useful to candidates taking the UCPAE. A board-recognized institution of higher education must have accepted the courses for purposes of obtaining a baccalaureate degree or its equivalent, and they must be shown on an official transcript. [At least 15 of these hours must result from physical attendance at classes meeting regularly on the campus of the transcript-issuing institution.]

(d) A non-traditionally-delivered course meeting the requirements of this section must have been reviewed and approved through a formal, institutional faculty review process that evaluates the course and its learning outcomes and determines that the course does, in fact, have equivalent learning outcomes to an equivalent, traditionally delivered course.

(e) The subject-matter content should be derived from the UCPAE Content Specifications Outline and cover some or all of the following:

(1) financial accounting and reporting for business organizations that may include:

(A) up to nine semester credit hours of intermediate accounting;

(B) advanced accounting;

(C) accounting theory;

(2) managerial or cost accounting (excluding introductory level courses);

(3) auditing and attestation services;

(4) internal accounting control and risk assessment;

(5) financial statement analysis;

(6) accounting research and analysis;

(7) up to 12 semester credit hours of taxation (including tax research and analysis);

(8) financial accounting and reporting for governmental and/or other nonprofit entities;

(9) up to 12 semester credit hours of accounting information systems, including management information systems ("MIS"), provided the MIS courses are listed or cross-listed as accounting courses, and the institution of higher education accepts these courses as satisfying the accounting course requirements for graduation with a degree in accounting;

(10) up to 12 semester credit hours of accounting data analytics, provided the institution of higher education accepts these courses as satisfying the accounting course requirements for graduation with a degree in accounting (while data analytics tools may be taught in the courses, application of the tools should be the primary objective of the courses);

(11) fraud examination;

(12) international accounting and financial reporting;

(13) an accounting internship program (not to exceed 3 semester credit hours) which meets the following requirements:

(A) the accounting knowledge gained is equal to or greater than the knowledge gained in a traditional accounting classroom setting;

(B) the employing firm provides the faculty coordinator and the student with the objectives to be met during the internship;

(C) the internship plan is approved in advance by the faculty coordinator;

(D) the employing firm provides significant accounting work experience with adequate training and supervision of the work performed by the student;

(E) the employing firm provides an evaluation of the student at the conclusion of the internship, provides a letter describing the duties performed and the supervision to the student, and provides a copy of the documentation to the faculty coordinator and the student;

(F) the student keeps a diary comprising a chronological list of all work experience gained in the internship;

(G) the student writes a paper demonstrating the knowledge gained in the internship;

(H) the student and/or faculty coordinator provides evidence of all items upon request by the board;

(I) the internship course shall not be taken until a minimum of 12 semester credit hours of upper division accounting course work has been completed; and

(J) the internship course shall be the equivalent of a traditional course; and

(14) at its discretion, the board may accept up to three semester hours of credit of accounting course work with substantial merit in the context of a career in public accounting, provided the course work is predominantly accounting or auditing in nature but not included in paragraphs (1) - (12) of this subsection. For any course submitted under this provision, the Accounting Faculty Head or Chair must affirm to the board in writing the course's merit and content.

(f) The board requires that a minimum of two semester credit hours in research and analysis relevant to the course content described in subsection (e)(6) or (7) of this section be completed. The semester credit hours may be obtained through a discrete course or offered through an integrated approach. If the course content is offered through integration, the institution of higher education must advise the board of the course(s) that contain the research and analysis content.

(g) The following types of introductory courses do not meet the accounting course definition in subsection (e) of this section:

(1) elementary accounting;

(2) principles of accounting;

(3) financial and managerial accounting;

(4) introductory accounting courses; and

(5) accounting software courses.

(h) Any CPA review course offered by an institution of higher education or a proprietary organization shall not be used to meet the accounting course definition.

(i) CPE courses shall not be used to meet the accounting course definition.

(j) An ethics course required in §511.58(c) of this chapter (relating to Definitions of Related Business Subjects and Ethics Courses) shall not be used to meet the accounting course definition in subsection (e) of this section.

(k) Accounting courses completed through an extension school of a board recognized educational institution may be accepted by the board provided that the courses are accepted for a business baccalaureate or higher degree conferred by that educational institution.

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 14, 2020.

TRD-202001915

J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

Earliest possible date of adoption: June 28, 2020

For further information, please call: (512) 305-7842



## **TITLE 34. PUBLIC FINANCE**

### **PART 1. COMPTROLLER OF PUBLIC ACCOUNTS**

#### **CHAPTER 19. STATE ENERGY CONSERVATION OFFICE**

##### **SUBCHAPTER C. ENERGY CONSERVATION DESIGN STANDARDS**

###### **34 TAC §19.32**

The Comptroller of Public Accounts proposes amendments to §19.32, concerning energy and water conservation design standards.

The amendments to §19.32 update the energy conservation design standards and water conservation design standards for new construction or major renovation of existing buildings in compliance with Government Code, §447.004, which requires the State Energy Conservation Office (SECO) to establish and publish mandatory energy and water conservation design standards for state buildings or major renovation projects and to review and update the standards biennially. The amendments also clarify that International Conservation Code means the International Energy Conservation Code (IECC).

Tom Currah, Chief Revenue Estimator, has determined that during the first five years that the proposal is in effect, the rule: will not create or eliminate a government program; will not require the creation or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to the agency; will not require an increase or decrease in fees paid to the agency; will not increase or decrease the number of individuals subject to the rules' applicability; and will not positively or adversely affect this state's economy.

Mr. Currah also has determined that the proposed amendment would have no significant fiscal impact on the state government, units of local government, or individuals. The proposed amendment would benefit the public by conforming the rule to current

statute. There would be no anticipated significant economic cost to the public. The proposed amendment would have no significant fiscal impact on small businesses or rural communities.

Comments on the proposal may be submitted to Eddy Trevino, Director, State Energy Conservation Office, at [SECO.rule.comments@cpa.texas.gov](mailto:SECO.rule.comments@cpa.texas.gov) or at P.O. Box 13528, Capitol Station, Austin, Texas 78711-3528. Comments must be received no later than 30 days from the date of publication of the proposal in the *Texas Register*.

The amendment is proposed under Government Code, §447.002(b), which authorizes SECO to "establish procedures and adopt rules relating to the development and implementation of energy and water conservation measures and programs applicable to state buildings and facilities."

The amendments implement Government Code, §447.004 regarding design standards.

###### *§19.32. Energy and Water Conservation Design Standards.*

(a) SECO adopts by reference the following minimum energy standards for state agencies and institutions of higher education:

(1) for any new construction or major renovation project, except low-rise residential buildings, with a design assignment made on or after May 1, 2021 [~~June 1, 2016~~], the energy conservation design standard of the American National Standards Institute (ANSI)/American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE)/Illuminating Engineering Society (IES) [~~Illuminating Engineering Society of North America (IESNA)~~; Energy Standard for Buildings, ASHRAE/IESNA] Standard 90.1-2016 Energy Standard for Buildings Except Low-Rise Residential Buildings [2013], and any errata sheet for 90.1-2016 [2013] that is published by the ASHRAE Standards Committee or the 2018 [2015] International Energy Conservation Code (IECC) as published by the International Code Council (ICC), provided however the following buildings or structures are exempt from compliance with this section:

(A) a building or structure that is listed in the State or National Register of Historic Places;

(B) a building or structure that is designated as a historic property under local or state designation law or survey;

(C) a building or structure that is certified as a contributing resource with a National Register listed or locally designated historic district; or

(D) with an opinion or certification by the State Historic Preservation Officer or Keeper of the National Register of Historic Places, a building or structure that is eligible to be listed on the National or State Registers of Historic Places either individually or as a contributing building to a historic district;

(2) for any new construction or major renovation project of a low-rise residential building with a design assignment made on or after May 1, 2021 [~~June 1, 2016~~], the residential chapter of the 2018 [2015] International Energy Conservation Code as published by the International Code Council.

(b) Effective May 1, 2021 [~~June 1, 2016~~], SECO adopts by reference the "Water Conservation Design Standards for State Buildings and Institutions of Higher Education Facilities" prepared by SECO, dated April 2020[2016], as the water conservation design standards for any new construction or major renovation project.

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 14, 2020.

TRD-202001914

Don Neal

General Counsel, Operations and Support Legal Services

Comptroller of Public Accounts

Earliest possible date of adoption: June 28, 2020

For further information, please call: (512) 475-0387



## **TITLE 40. SOCIAL SERVICES AND ASSISTANCE**

### **PART 19. DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES**

#### **CHAPTER 700. CHILD PROTECTIVE SERVICES**

#### **SUBCHAPTER M. SUBSTITUTE-CARE SERVICES**

#### **DIVISION 1. GENERAL**

#### **40 TAC §700.1311**

The Department of Family and Protective Services (DFPS), proposes the amendment of §700.1311 in Title 40, Texas Administrative Code (TAC), Chapter 700, Subchapter M, relating to Substitute-Care Services.

#### **BACKGROUND AND PURPOSE**

The purpose of the rule amendment is to expand from one to four the number of individuals who may approve the placement of a child in DFPS conservatorship into a general residential operation (GRO) the Child Care Licensing Department of the Texas Health and Human Services Commission (HHSC) has placed on probation, if other criteria are met.

Pursuant to current rules, if a child cannot be placed with a relative or other person with whom the child has a long-standing and significant relationship, DFPS must seek to place the child in a foster or adoptive home that can meet the child's needs. If DFPS is unable to locate a foster home that can provide safe and appropriate care to the child, DFPS may consider placing the child in any of the settings described in TAC 700.1307, including a GRO, when criteria outlined in that rule are met.

In relation to placement in a GRO, Section 700.1311(c) proposed for amendment currently requires the Assistant Commissioner for Child Protective Services to approve any placement of a child in DFPS conservatorship into a GRO that is on probation with HHSC Child Care Licensing unless the placement is ordered by a court.

The rule amendment would change the title of the specified Commissioner from Assistant Commissioner for Child Protective Services to the Associate Commissioner for Child Protective Services, and would add the titles of three additional individuals that would have authority to approve a placement into a GRO on probation to include the Deputy Associate Commissioner for CPS, the DFPS Deputy Commissioner, or the DFPS Commissioner.

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

The proposed amendment of §700.1311(c): (1) changes the title of the Assistant Commissioner for Child Protective Services

to the Associate Commissioner for Child Protective Services; and (2) adds the Deputy Associate Commissioner of CPS, the Deputy Commissioner of DFPS, and the Commissioner of DFPS as individuals who may approve the placement of a child into a GRO on probation with the HHSC Child Care Licensing Department.

#### **FISCAL NOTE**

David Kinsey, Chief Financial Officer of DFPS, has determined that for each year of the first five years that the amendment will be in effect, there will not be fiscal implications to state or local governments.

#### **GOVERNMENT GROWTH IMPACT STATEMENT**

DFPS has determined that during the first five years that the proposed rules will be in effect:

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

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

Mr. Kinsey has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities.

The proposed amendment does not apply to small or micro-businesses, or rural communities.

#### **ECONOMIC COSTS TO PERSONS AND IMPACT ON LOCAL EMPLOYMENT**

The proposed amendment will not affect a local economy.

#### **COSTS TO REGULATED PERSONS**

Pursuant to subsection (c)(7) of Texas Government Code §2001.0045, the statute does not apply to a rule that is adopted by the Department of Family and Protective Services.

#### **PUBLIC BENEFIT**

Kristene Blackstone, Associate Commissioner for Child Protective Services, has determined that for each year of the first five years the amendment is in effect, the public benefit anticipated as a result of enforcing the section will be that DFPS will be able to more promptly place a child in DFPS conservatorship in a GRO that is on probation from the Child Care Licensing Department of HHSC when the Associate Commissioner is unavailable and the placement is determined to be the most appropriate placement for the child.

## REGULATORY ANALYSIS

The department has determined that this proposal is not a "major environmental rule" as defined by Government Code §2001.0225.

## TAKINGS IMPACT ASSESSMENT

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

## PUBLIC COMMENT

Comments and questions on this proposal must be submitted within 30 days of publication of the proposal in the *Texas Register*. Electronic comments and questions may be submitted to the Rules Coordinator at Rules@dfps.state.tx.us. Hard copy comments may be submitted to the DFPS Rules Coordinator, Legal Services 19R15, Department of Family and Protective Services E-611, P.O. Box 149030, Austin, Texas 78714-9030.

## STATUTORY AUTHORITY

The amendment is proposed under Human Resources Code (HRC) §40.027, which provides that the Department of Family and Protective Services commissioner shall adopt rules for the operation and provision of services by the department.

Except as described herein the proposed amendment affects no other code, article or statute.

*§700.1311. What special considerations apply when selecting a placement other than a relative or other person with whom the child has a long-standing and significant relationship?*

(a) - (b) (No change.)

(c) Notwithstanding any other provision in this section, unless ordered by a court to do so, DFPS does not place a child in:

(1) a general residential operation that the Child Care Licensing Department of the Texas Health and Human Services Commission has placed on probation unless the placement is approved by the Associate [Assistant] Commissioner or Deputy Associate Commissioner for Child Protective Services, the Deputy Commissioner for DFPS, or the Commissioner for DFPS; or

(2) (No change.)

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 15, 2020.

TRD-202001941

Audrey Carmical

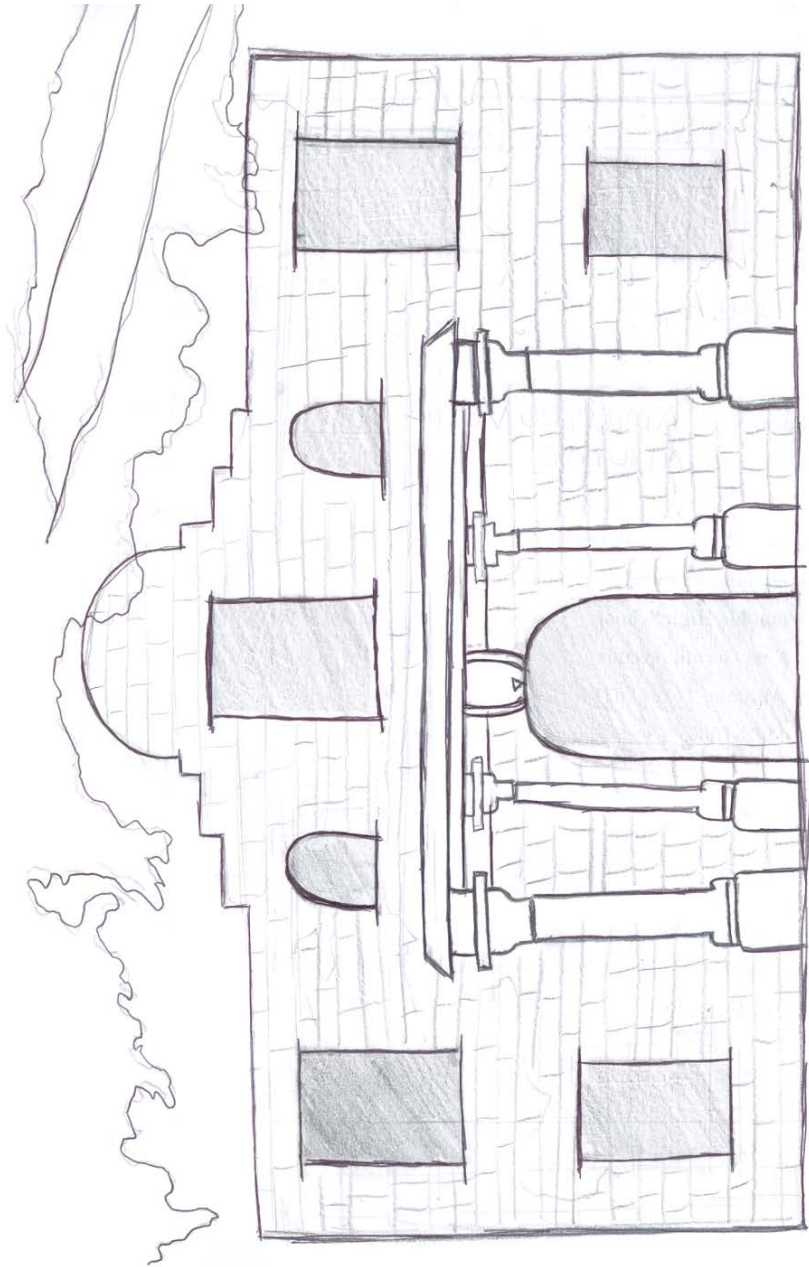
General Counsel

Department of Family and Protective Services

Earliest possible date of adoption: June 28, 2020

For further information, please call: (512) 438-3805

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# ADOPTED RULES

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

## TITLE 1. ADMINISTRATION

### PART 3. OFFICE OF THE ATTORNEY GENERAL

#### CHAPTER 63. PUBLIC INFORMATION SUBCHAPTER A. CONFIDENTIALITY OF INFORMATION REQUESTED FOR LEGISLATIVE PURPOSES

##### 1 TAC §63.1

The Office of the Attorney General (OAG) adopts an amendment to Chapter 63, Subchapter A, §63.1, concerning definition, purpose, and application. The OAG adopts the amendment without changes to the proposed text as published in the March 6, 2020, issue of the *Texas Register* (45 TexReg 1525), and the text of the amendment will not be republished.

A legislator requesting public information under Texas Government Code §552.008 for legislative purposes may be required to sign a confidentiality agreement to receive information that is confidential under law. Chapter 63, Subchapter A establishes the process by which a legislator, who is required to sign a confidentiality agreement, may seek an attorney general decision about whether information subject to the confidentiality agreement is confidential under law. Section 63.1(c) makes Texas Government Code §552.308, concerning the timeliness of action by mail or common carrier, applicable to all deadlines in Subchapter A. The OAG is amending §63.1(c) to clarify that Texas Government Code §552.309, concerning the timeliness of action transmitted through the attorney general's electronic filing system, is also applicable to all deadlines in Subchapter A.

No comments were received regarding the adoption of the amendment.

The amendment to §63.1 is adopted in accordance with Texas Government Code §552.008(b-2), which requires the OAG to establish, by rule, the procedures and deadlines for a member, committee, or agency of the legislature to seek an attorney general decision about whether information requested under Texas Government Code §552.008 and covered by a confidentiality agreement is confidential under law. No other code, article, or statute is affected.

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

Filed with the Office of the Secretary of State on May 15, 2020.  
TRD-202001946

Lesley French  
General Counsel  
Office of the Attorney General  
Effective date: June 4, 2020  
Proposal publication date: March 6, 2020  
For further information, please call: (512) 475-3210

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

#### CHAPTER 351. COORDINATED PLANNING AND DELIVERY OF HEALTH AND HUMAN SERVICES

##### SUBCHAPTER B. ADVISORY COMMITTEES DIVISION 1. COMMITTEES

##### 1 TAC §351.825

The Texas Health and Human Services Commission (HHSC) adopts an amendment to §351.825, concerning the Texas Brain Injury Advisory Council (TBIAC). The amendment to §351.825 is adopted without changes to the proposed text as published in the February 21, 2020, issue of the *Texas Register* (45 TexReg 1083). This rule will not be republished.

##### BACKGROUND AND JUSTIFICATION

The amendment extends the TBIAC for four years until July 1, 2024. Additionally, editorial changes were made for clarity and consistency, changes were made to align rule language with other HHSC advisory committee rules, and reporting requirements were edited to align with statute and policy.

##### COMMENTS

The 31-day comment period ended March 23, 2020.

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

##### STATUTORY AUTHORITY

The amendment is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.012, which authorizes the Executive Commissioner to establish advisory committees by rule.

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

Filed with the Office of the Secretary of State on May 18, 2020.

TRD-202001961

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Effective date: July 1, 2020

Proposal publication date: February 21, 2020

For further information, please call: (512) 438-4792



## TITLE 4. AGRICULTURE

### PART 1. TEXAS DEPARTMENT OF AGRICULTURE

#### CHAPTER 10. SEED CERTIFICATION STANDARDS

The Texas Department of Agriculture (TDA) adopts amendments to Title 4, Part 1, Chapter 10, Seed Certification Standards, Subchapter A, General Requirements, §10.2(c)(9), relating to Eligibility of Varieties, and §10.9(a), relating to Seed Testing; Subchapter C, Acreage Inspection Fees for Certification, §10.13, relating to Inspection Fees for Certification; and Subchapter D, Laboratory Analysis Chart, §10.14, relating to Minimum Amount of Seed Required for Laboratory Analysis. TDA also adopts new Title 4, Part 1, Chapter 10, Seed Certification Standards, Subchapter K, Industrial Hemp Seed, §10.51, relating to Application and Amplification of Industrial Hemp Seed Certification; §10.52, relating to Land Requirements (Rules Covering Land Prior to Planting); §10.53, relating to Handling of Crop Prior to Inspection; and §10.54, relating to Field Standards.

Sections 10.2(c)(9) and 10.9(a) of Subchapter A, General Requirements; §10.13 of Subchapter C, Acreage Inspection Fees for Certification; §10.14 of Subchapter D, Laboratory Analysis Chart; and §§10.51-10.54 of Subchapter K, Industrial Hemp Seed, are adopted without changes to the proposal published in the April 10, 2020, issue of the *Texas Register* (45 TexReg 2391) and will not be republished.

The adopted rules will regulate the certification standards for industrial hemp seed in Texas. These rules are adopted for TDA's administration of industrial hemp seed as part of the industrial hemp production program, to comply with relevant sections in P.L. 115-334 (December 20, 2018), the Agricultural Improvement Act of 2018 (2018 Farm Bill), and Chapters 121-122 of the Texas Agriculture Code (Code), and to enforce the standards of genetic purity and identity adopted by the State Seed and Plant Board according to its authority under Chapter 62 of the Code.

The public comment period on the proposal began on April 10, 2020, and ended on May 10, 2020. No comments were received.

#### SUBCHAPTER A. GENERAL REQUIREMENTS

##### 4 TAC §10.2, §10.9

The adoption is made in compliance with the 2018 Farm Bill; §§121.003-004, 122.051-052, and 122.252-253 of the Code which designate the department as the lead agency for the administration, implementation, and enforcement of hemp production, and authorize the department to adopt rules to coordinate, implement and enforce the hemp program; §62.004 of

the Code, which provides the State Seed and Plant Board with the authority to establish standards of genetic purity and identity as necessary for the efficient enforcement of agricultural interest; §12.016 of the Code, which provides the department with the authority to adopt rules for administration of the Code; and §62.008 of the Code, which provides the department with the authority to charge fees related to seed certification. Chapters 12, 62, 121 and 122 of the Code are affected by the adoption.

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

Filed with the Office of the Secretary of State on May 15, 2020.

TRD-202001929

Ferjie Ruiz Hontanosas

Assistant General Counsel

Texas Department of Agriculture

Effective date: June 4, 2020

Proposal publication date: April 10, 2020

For further information, please call: (512) 463-7476



#### SUBCHAPTER C. ACREAGE INSPECTION FEES FOR CERTIFICATION

##### 4 TAC §10.13

The adoption is made in compliance with the 2018 Farm Bill; §§121.003-004, 122.051-052, and 122.252-253 of the Code which designate the department as the lead agency for the administration, implementation, and enforcement of hemp production, and authorize the department to adopt rules to coordinate, implement and enforce the hemp program; §62.004 of the Code, which provides the State Seed and Plant Board with the authority to establish standards of genetic purity and identity as necessary for the efficient enforcement of agricultural interest; §12.016 of the Code, which provides the department with the authority to adopt rules for administration of the Code; and §62.008 of the Code, which provides the department with the authority to charge fees related to seed certification. Chapters 12, 62, 121 and 122 of the Code are affected by the adoption.

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

Filed with the Office of the Secretary of State on May 15, 2020.

TRD-202001930

Ferjie Ruiz Hontanosas

Assistant General Counsel

Texas Department of Agriculture

Effective date: June 4, 2020

Proposal publication date: April 10, 2020

For further information, please call: (512) 463-7476



#### SUBCHAPTER D. LABORATORY ANALYSIS CHART

##### 4 TAC §10.14



The adoption is made in compliance with the 2018 Farm Bill; §§121.003-004, 122.051-052, and 122.252-253 of the Code which designate the department as the lead agency for the administration, implementation, and enforcement of hemp production, and authorize the department to adopt rules to coordinate, implement and enforce the hemp program; §62.004 of the Code, which provides the State Seed and Plant Board with the authority to establish standards of genetic purity and identity as necessary for the efficient enforcement of agricultural interest; §12.016 of the Code, which provides the department with the authority to adopt rules for administration of the Code; and §62.008 of the Code, which provides the department with the authority to charge fees related to seed certification. Chapters 12, 62, 121 and 122 of the Code are affected by the adoption.

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

Filed with the Office of the Secretary of State on May 15, 2020.

TRD-202001931

Ferjie Ruiz Hontanosas

Assistant General Counsel

Texas Department of Agriculture

Effective date: June 4, 2020

Proposal publication date: April 10, 2020

For further information, please call: (512) 463-7476



## SUBCHAPTER K. INDUSTRIAL HEMP SEED, FIELD STANDARDS

### 4 TAC §§10.51 - 10.54

The adoption is made in compliance with the 2018 Farm Bill; §§121.003-004, 122.051-052, and 122.252-253 of the Code which designate the department as the lead agency for the administration, implementation, and enforcement of hemp production, and authorize the department to adopt rules to coordinate, implement and enforce the hemp program; §62.004 of the Code, which provides the State Seed and Plant Board with the authority to establish standards of genetic purity and identity as necessary for the efficient enforcement of agricultural interest; §12.016 of the Code, which provides the department with the authority to adopt rules for administration of the Code; and §62.008 of the Code, which provides the department with the authority to charge fees related to seed certification. Chapters 12, 62, 121 and 122 of the Code are affected by the adoption.

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

Filed with the Office of the Secretary of State on May 15, 2020.

TRD-202001932

Ferjie Ruiz Hontanosas

Assistant General Counsel

Texas Department of Agriculture

Effective date: June 4, 2020

Proposal publication date: April 10, 2020

For further information, please call: (512) 463-7476



## CHAPTER 20. COTTON PEST CONTROL

The Texas Department of Agriculture (the Department) adopts amendments to the Texas Administrative Code, Title 4, Part 1, Chapter 20, Subchapter B, Quarantine Requirements, §20.13 and §20.14; and amendments to Subchapter C, §20.21, relating to Cotton Producer Advisory Committees, without changes to the proposed text as published in the March 27, 2020, issue of the *Texas Register* (45 TexReg 2103). The rules will not be republished.

The adopted amendments to §20.13 and §20.14 change the boll weevil quarantine status of the Northern Blacklands (NBL) and Southern Blacklands (SBL) boll weevil eradication zones from functionally eradicated to eradicated. These changes are made on the recommendation of NBL and SBL cotton grower steering committees, the Texas Boll Weevil Eradication Foundation (TBWEF) Technical Advisory Committee, and the TBWEF Board of Directors. The adopted amendments are necessary to prevent the re-infestation of boll weevils in the NBL and SBL, and will provide protection to the NBL and SBL eradication zones by regulating the movement of articles that could transport boll weevil and re-infest the NBL and SBL.

The Department received one comment in support of the adoption of these amendments from Lindy Patton, President and CEO of the Texas Boll Weevil Eradication Foundation.

The adopted amendment to §20.21 modifies the term length of producer members of the Cotton Producer Advisory Committee (CPAC) of Pest Management Zones from two years to four years. The adopted amendment to extend the term length of producer members of a CPAC from two years to four years increases the effective enforcement and administration of the cotton pest program.

The Department received no comments regarding the adoption of this amendment.

## SUBCHAPTER B. QUARANTINE REQUIREMENTS

### 4 TAC §20.13, §20.14

The amendments are adopted under §74.009 of the Texas Agriculture Code, which requires the Department employ all constitutional methods to control and eradicate cotton pests that scientific research demonstrates to be successful; §74.122, which authorizes the Department to adopt rules relating to quarantining areas of this state that are infested with the boll weevil; §74.003, which authorizes the Department to appoint cotton producers to an administrative committee that shall govern each pest management zone; and §74.006, which authorizes the Department to adopt rules as necessary for the effective enforcement and administration of the cotton pest control program.

Chapter 74 of the Texas Agriculture Code is affected by the adoption.

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

Filed with the Office of the Secretary of State on May 15, 2020.

TRD-202001934

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Assistant General Counsel  
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Effective date: June 4, 2020  
Proposal publication date: March 27, 2020  
For further information, please call: (512) 463-7476



## SUBCHAPTER C. STALK DESTRUCTION PROGRAM

### 4 TAC §20.21

The amendments are adopted under §74.009 of the Texas Agriculture Code, which requires the Department employ all constitutional methods to control and eradicate cotton pests that scientific research demonstrates to be successful; §74.003, which authorizes the Department to appoint cotton producers to an administrative committee that shall govern each pest management zone; and §74.006, which authorizes the Department to adopt rules as necessary for the effective enforcement and administration of the cotton pest control program.

Chapter 74 of the Texas Agriculture Code is affected by the adoption.

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

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TRD-202001935

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For further information, please call: (512) 463-7476



## TITLE 16. ECONOMIC REGULATION

### PART 2. PUBLIC UTILITY COMMISSION OF TEXAS

#### CHAPTER 25. SUBSTANTIVE RULES APPLICABLE TO ELECTRIC SERVICE PROVIDERS

#### SUBCHAPTER I. TRANSMISSION AND DISTRIBUTION

#### DIVISION 2. TRANSMISSION AND DISTRIBUTION APPLICABLE TO ALL ELECTRIC UTILITIES

##### 16 TAC §25.227

The Public Utility Commission of Texas (commission) adopts the repeal of 16 TAC §25.227 relating to Electric Utility Service for Public Retail Customers without changes to the proposal as published in the February 28, 2020, issue of the *Texas Register*

(45 TexReg 1294). The rule will not be republished. The repeal implements amendments to the Public Utility Regulatory Act (PURA) included in House Bill (HB) 2263 enacted during the 86th Legislative Session. HB 2263 removed provisions in PURA that authorized the commissioner of the General Land Office to make electricity sales directly to public retail customers.

No public hearing on the repeal was requested and therefore no public hearing was held.

The commission did not receive comments on the proposed repeal.

This repeal is adopted under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 which provides the Public Utility Commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction.

Cross Reference to Statutes: Public Utility Regulatory Act §14.002.

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

Filed with the Office of the Secretary of State on May 15, 2020.

TRD-202001943

Andrea Gonzalez

Rules Coordinator

Public Utility Commission of Texas

Effective date: June 4, 2020

Proposal publication date: February 28, 2020

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



## SUBCHAPTER O. UNBUNDLING AND MARKET POWER

### DIVISION 2. INDEPENDENT ORGANIZATIONS

##### 16 TAC §25.367

The Public Utility Commission of Texas (commission) adopts new §25.367, relating to cybersecurity monitor, with changes to the proposed text as published in the December 27, 2019, issue of the *Texas Register* (44 TexReg 8188). The rule will establish a cybersecurity coordination program to monitor cybersecurity efforts among electric utilities, electric cooperatives, and municipally owned electric utilities in the state, as required by Senate Bill (SB) 64, relating to cybersecurity for information resources, 86th Legislature, Regular Session; and will establish a cybersecurity monitor, a cybersecurity monitor program, and the method to fund the cybersecurity monitor, as required by SB 936, relating to cybersecurity monitor for certain electric utilities, 86th Legislature, Regular Session. This new section is adopted under Project No. 49819.

The commission received comments on the proposed rule from CenterPoint Energy Houston Electric, LLC (CenterPoint); the Electric Reliability Council of Texas, Inc. (ERCOT); Lower Colorado River Authority (LCRA); Office of Public Utility Counsel (OPUC); Oncor Electric Delivery Company LLC (Oncor) and Texas-New Mexico Power Company (TNMP); Southwestern Public Service Company, El Paso Electric Company, and En-

tergy Texas, Inc., (collectively the Integrated Utilities); Texas Electric Cooperatives, Inc., (TEC); and Texas Public Power Association (TPPA). There was no request for a public hearing.

#### *General Comments on §25.367*

CenterPoint, LCRA, OPUC, TEC, and TPPA generally supported the proposed rule, which implements SB 64 and SB 936 by establishing requirements for a cybersecurity coordination program, a cybersecurity monitor, and cybersecurity monitoring program. ERCOT supported the proposed rule with respect to the provisions applicable to ERCOT. Oncor and TNMP supported several portions of the proposed rule including the process for selection of the cybersecurity monitor, most of the qualifications for the cybersecurity monitor, certain responsibilities of the cybersecurity monitor, the ethics standards governing the cybersecurity monitor, and funding of the cybersecurity monitor.

LCRA, Oncor, TNMP, and TPPA stated that the statute did not grant authority to the cybersecurity monitor to monitor utilities, enforce the Public Utility Regulatory Act (PURA) or commission rules, or regulate utilities.

Oncor, TNMP, LCRA, and TPPA stated that the Legislature made clear that information submitted by utilities to the cybersecurity monitor is to be disclosed voluntarily. LCRA and TPPA supported establishment of a cybersecurity monitor and cybersecurity programs that focus on outreach, research, facilitating the distribution of information to utilities, and the development of best practices.

Oncor and TNMP suggested adding a statement to the proposed rule that the rule does not conflict with, replace, or negate the applicability of any other applicable law or regulation.

The Integrated Utilities requested clarification regarding the manner in which the cybersecurity coordination program and cybersecurity monitor program will coexist if all utilities do not elect to participate in the cybersecurity monitor program, why two programs are necessary, and the manner in which the programs' operations will vary. The Integrated Utilities also requested that a subsection be added to address utility cost recovery.

#### **Commission Response**

**In this rule, the commission is implementing two bills, SB 64 and SB 936. SB 64 established a cybersecurity coordination program for electric cooperatives, electric utilities, municipally owned electric utilities, and transmission and distribution utilities throughout the state to provide guidance on best practices in cybersecurity and facilitate sharing of information. SB 936 established a cybersecurity monitor program for transmission and distribution utilities, a corporation described in PURA §32.053 (Lower Colorado River Authority Transmission Services Corporation), and municipally owned utilities or electric cooperatives in the ERCOT region that own or operate equipment or facilities to transmit electricity at 60 or more kilovolts. Electric utilities, municipally owned utilities, and electric cooperatives operating outside the ERCOT region may also elect to participate in the program. New §25.367 is intended to harmonize the requirements of the two bills. Any utility in Texas may participate in the cybersecurity coordination program at no cost. The cybersecurity monitor program includes the additional features set out in §25.367(f)(2) that are available to monitored utilities. Monitored utilities in the ERCOT region will contribute to the costs of the cyber-**

**security monitor program through payment of the ERCOT administrative fee. Monitored utilities that operate solely outside the ERCOT region will contribute to the costs of the cybersecurity monitor program by payment of the fee established under §25.367(n)(2).**

**The commission responds to the other issues raised in the general comments in the commission responses to comments in the applicable subsections of the proposed rule.**

#### *Comments on §25.367(a) (Purpose)*

This subsection describes the purpose of the rule: to establish requirements for the commission's cybersecurity coordination program, the cybersecurity monitor program, the cybersecurity monitor, and participation in the cybersecurity monitor program; and to establish the methods to fund the cybersecurity monitor.

LCRA, Oncor, and TNMP recommended adding the word "voluntary" before cybersecurity monitor program to clarify that participation in the cybersecurity monitor program is voluntary; and add the statement "This section is not intended to replace or negate any other applicable law or regulation." TPPA supported this recommendation.

#### **Commission Response**

**The commission declines to make the requested changes in the purpose statement because they are unnecessary. The voluntary nature of participation in the cybersecurity coordination and cybersecurity monitor programs is made clear throughout the rule. The commission declines to add the statement about replacing or negating other applicable law or regulation, because it is unnecessary and as recommended, overly broad.**

#### *Comments on §25.367(e) (Qualifications of the cybersecurity monitor)*

The Integrated Utilities recommended that §25.367(e)(2) relating to qualifications of the cybersecurity monitor be rewritten to add "Those skills include:" immediately following the revised sentence "The cybersecurity monitor must collectively possess a set of technical skills necessary to perform cybersecurity monitoring functions."

#### **Commission Response**

**The commission modifies §25.367(e)(2) for clarity.**

LCRA stated that the commission should ensure the qualifications of the cybersecurity monitor align with the legislatively prescribed purpose of this new entity. LCRA recommended that the word "governance" be replaced with "best practices" before "documents" in §25.367(e)(2)(A) to avoid confusion about the role of the cybersecurity monitor and its authority.

#### **Commission Response**

**The commission declines to insert the phrase "best practices" as proposed by LCRA and deletes the word "governance" before the word "documents" because using a modifier for the word "documents" is unnecessary and could cause confusion.**

Oncor, TNMP, and TPPA supported removal or modification of §25.367(e)(2)(C), which requires the cybersecurity monitor to have the technical skills to conduct vulnerability assessments. Oncor, TNMP, and LCRA asserted that the provision is not consistent with the intent of the Legislature. Oncor and TNMP stated

that the provision is overly broad and should be deleted or, at a minimum, reworded in a manner that tracks the language of PURA §39.1516(b)(3) such as "reviewing self-assessments voluntarily disclosed by monitored utilities of cybersecurity efforts." Further, Oncor and TNMP asserted that if the provision is not deleted or modified, it could create ambiguity as to whether the cybersecurity monitor has authority to require monitored utilities to submit to the vulnerability assessments the cybersecurity monitor wishes to conduct. TPPA recommended that if the commission declines to revise the rule language, then the information analyzed should consist only of the monitored utility's voluntary self-assessments, or that information used by the cybersecurity monitor to conduct vulnerability assessments be routed through monitored utility points of contact instead of directly collected by the cybersecurity monitor. LCRA recommended that the provision be deleted.

#### Commission Response

**The commission declines to modify §25.367(e)(2)(C). Subsection 25.367(e) describes the required qualifications for the cybersecurity monitor and does not, in itself, confer any authority. The commission agrees that the cybersecurity monitor does not have the authority to require monitored utilities to submit to vulnerability assessments or to produce documents or other information related to any such assessments. Nevertheless, the cybersecurity monitor must have the skills necessary to perform vulnerability assessments to competently provide services to utilities that request assistance in this area.**

*Comments on §25.367(f) (Responsibilities of the cybersecurity monitor)*

CenterPoint stated that the language in §25.367(f), which relates to the responsibilities of the cybersecurity monitor, appropriately lists the cybersecurity monitor's responsibilities associated with the cybersecurity programs consistent with the enabling legislation.

LCRA stated that additional clarity is needed regarding whose data and information will be gathered by the cybersecurity monitor. LCRA recommended changes to add the cybersecurity monitor's responsibility to collect information from ERCOT; to reiterate that provision of information by electric utilities is voluntary; and to remove the words "analyze," "as-needed," and the reference to the cybersecurity coordination program. LCRA stated that these changes are necessary to track the Legislature's specific grants of authority as codified in PURA §39.1516(b)(3) and (c). LCRA added that, because the Legislature did not authorize data gathering from electric utilities as part of SB 64, this provision should not reference the cybersecurity coordination program. TPPA supported LCRA's recommendation.

In an effort to leverage information already maintained by utility staff, the Integrated Utilities suggested that utility self-assessments and other information gathering be based on commonly used security control standards such as those published in the National Institute of Standards and Technology (NIST) document, NIST 800-53.

#### Commission Response

**The commission modifies §25.367(f) to add ERCOT as a possible source of information and to emphasize the voluntary nature of information sharing but declines to remove the reference to the cybersecurity coordination program. The cybersecurity monitor's responsibilities span both programs**

**covered by the new rule. The commission agrees that utility self-assessments and other information gathering should be based on commonly used standards but will not reference specific standards in the rule. The commission anticipates that the cybersecurity monitor will work with monitored utilities to ensure that appropriate security control standards are used.**

*Comments on §25.367(g) (Authority of the cybersecurity monitor)*

Oncor and TNMP stated that the Legislature did not grant the cybersecurity monitor authority to monitor utilities, enforce PURA or commission rules, or regulate utilities in any way. Oncor, TNMP and LCRA stated that the legislation establishing the cybersecurity monitor did not vest the cybersecurity monitor with any ability to impose reporting or documentation requirements on monitored utilities or any ability to oversee, investigate, or audit monitored utilities. Oncor and TNMP asserted that the cybersecurity monitor's mandated role is to develop and coordinate an outreach program to communicate information to utilities, rather than requiring monitored utilities to report information to the cybersecurity monitor. Oncor, TNMP, and LCRA recommended rule language to modify §25.367(g)(1) to clarify the role of the cybersecurity monitor.

The Integrated Utilities requested that the cybersecurity monitor's monitoring authority be limited to obtaining the information furnished in North American Electric Reliability Corporation Critical Infrastructure Protection (NERC CIP) and other existing assessments. They argued that this limitation would ensure that they do not need to generate new processes or materials for the cybersecurity monitor. To clarify that provision of information to the cybersecurity monitor is voluntary, the Integrated Utilities suggested adding "as agreed upon by the monitored utility" after "The cybersecurity monitor has the authority to conduct monitoring, analysis, reporting, and related activities" in §25.367(g)(1). Similarly, the Integrated Utilities suggested adding "which the monitored utility, in its sole discretion may provide to the cybersecurity monitor" to §25.367(g)(2).

CenterPoint and TPPA stated that the language in §25.367(g) could be interpreted as providing authority to the cybersecurity monitor not granted by legislation. To track the legislative intent for the cybersecurity programs and to clarify the relationship between §25.367 (g) and (f), CenterPoint recommended that §25.367(g)(1) be revised to provide that the cybersecurity monitor has the authority to carry out the responsibilities under §25.367(f); §25.367(g)(2) be deleted; and the description "who can answer questions the cybersecurity monitor may have" be removed from the one or more points of contact each monitored utility is required to designate in §25.367(g)(3).

Under §25.367(g)(2), the cybersecurity monitor has the authority to request certain information from a monitored utility, and §25.367(g)(3) provides that the cybersecurity monitor is authorized to request that each monitored utility designate one or more points of contact who can answer questions the cybersecurity monitor may have regarding a monitored utility's cyber and physical security activities. Oncor and TNMP stated that the rule is unclear as to whether a monitored utility is required to provide information responsive to the cybersecurity monitor's request under §25.367(g)(2), or whether the designated point of contact under §25.367(g)(3) is required to answer questions received from the cybersecurity monitor. LCRA agreed with Oncor and TNMP that, because the Legislature did not impose any obligation on the monitored utility to provide any information to the

cybersecurity monitor, §25.367(g)(2) and (g)(3) should be deleted. In the alternative, Oncor and TNMP suggested that the commission modify the rule language to clarify that a monitored utility's decision to submit information responsive to a request from the cybersecurity monitor is purely voluntary, and that the cybersecurity monitor is prohibited from pressuring a monitored utility to provide information.

TEC stated that no single point of contact may have all the information needed to respond to the cybersecurity monitor's questions. TEC recommended that §25.367(g)(3) be revised to allow each monitored utility's points of contact to coordinate answers to questions the cybersecurity monitor may have.

#### **Commission Response**

**The commission does not intend to confer authority on the cybersecurity monitor that is not granted by statute and modifies §25.367(g) to clarify the role of the cybersecurity monitor. The modifications clarify the voluntary nature of interactions between monitored utilities and the cybersecurity monitor. Because monitored utilities are not required to provide any documents to the cybersecurity monitor, it is not necessary to limit the types of documents that may be requested by, or provided to, the cybersecurity monitor. The commission removes statements about the cybersecurity monitor's enforcement authority because it is unnecessary to include such statements in the rule. Further, the obligation to designate one or more contact persons is clarified to be a requirement imposed by the commission, rather than the cybersecurity monitor. Accordingly, this provision has been relocated to §25.367(m). The commission declines to modify the requirement as recommended by TEC because coordination of responses to information requests is inherent in the role of a contact person.**

TEC and the Integrated Utilities stated that physical security is beyond the scope of the cybersecurity legislation and recommended that the reference to it be removed from §25.367(g)(3).

#### **Commission Response**

**The commission does not agree that physical security is beyond the scope of the cybersecurity monitor program and declines to remove the reference to physical security. Physical security is a component of cybersecurity and is part of the "Defense In Depth" strategy widely used within the cybersecurity industry and seen as a best business practice. The commission recognizes that there are aspects of physical security that are not related to cybersecurity and does not intend for the cybersecurity monitor program to extend to such areas.**

#### *Comments on §25.367(i) (Confidentiality standards)*

CenterPoint strongly supported the proposed rule language that protects the confidentiality of information related to the cybersecurity coordination and cybersecurity monitor programs. CenterPoint stated that §25.367(i) appropriately requires the cybersecurity monitor and commission staff to protect confidential information in accordance with PURA and other applicable laws.

Oncor, TNMP, LCRA, and TEC requested that the confidentiality language in §25.367(l)(3) be added to §25.367(i) to expressly state that information compiled by the cybersecurity monitor or provided by the cybersecurity monitor to the commission must be treated as confidential and not subject to public disclosure under Chapter 552 of the Government Code. Oncor and TNMP stated that this addition would ensure that the confidentiality obli-

gations under §25.367(i) comport with PURA §§39.1516(g) and 39.1516(h). Oncor, TNMP, and LCRA also requested that rule language be added to limit the recipients of the confidential information to entities or individuals such as commission staff and ERCOT and require that the information be source-anonymized.

The Integrated Utilities suggested that the rule language in §25.367(i) be revised to subject utilities to the same confidentiality standards as commission staff and the cybersecurity monitor, because confidential information may be shared in meetings conducted by the cybersecurity monitor.

#### **Commission Response**

**The commission does not agree that additional confidentiality requirements are necessary because the proposed rule incorporates the requirements of PURA, including §§39.1516(g) and (h), which provide that information related to the cybersecurity monitor program is confidential and not subject to disclosure under Chapter 552, Government Code. The commission declines to limit recipients of confidential information to commission staff and ERCOT, or to impose specific requirements on utilities, because program participants may, with appropriate safeguards, wish to share information with one another. Further, the commission declines to require that all information be source-anonymized, because that may not be possible or desirable in all situations.**

#### *Comments on §25.367(j) (Reporting requirements)*

TEC stated that §25.367(j) specifies that the cybersecurity monitor must submit monthly, quarterly and annual reports. To reduce production of excessive or duplicative information, TEC suggested that reporting be limited to special or periodic reports that the commission directs the cybersecurity monitor to prepare, quarterly and annual reporting, and additional reporting on an as-needed basis.

The Integrated Utilities suggested that the commission amend §25.367(j) or (k) or add a new subsection to the rule to specify that each participating utility will receive the information the cybersecurity monitor communicates to the commission and commission staff.

#### **Commission Response**

**Section §25.367(j) governs reports prepared by and submitted to the commission by the cybersecurity monitor. The commission does not agree that a requirement for monthly reports is duplicative or excessive. The commission declines to require that each participating utility receive the information the cybersecurity monitor communicates to the commission staff in its periodic reports. Doing so would impair informal and open communications between the cybersecurity monitor and the commission.**

#### *Comments on §25.367(k) (Communication between the cybersecurity monitor and the commission)*

LCRA stated that requiring the cybersecurity monitor to report to the commission and commission staff "any potential cybersecurity concerns" in §25.367(k)(2)(A) is overly broad. LCRA recommended replacing the word "potential" with "substantial" to require the cybersecurity monitor to immediately report directly to the commission and commission staff any "substantial" cybersecurity concerns. LCRA also proposed language relating to the threshold level of the concern that would trigger immediate notification.

LCRA and the Integrated Utilities stated that the proposed rule does not address the two-way flow of communication between the cybersecurity monitor and the monitored utilities contemplated by the Legislature. LCRA proposed modifying §25.367(k) to require that the cybersecurity monitor provide monitored utilities with the information it provides to the commission and commission staff.

#### Commission Response

**The commission agrees with LCRA that use of the word "potential" is too broad and modifies §25.367(k)(2)(A) to provide additional guidance on cybersecurity monitor communications with the commission and commission staff.**

**The commission does not adopt LCRA's proposal to require that the cybersecurity monitor provide monitored utilities with the information it provides to the commission and commission staff. Doing so would impair informal and open communications between the cybersecurity monitor and the commission.**

*Comments on §25.367(l) (ERCOT's responsibilities and support role)*

TPPA stated that the proposed rule only mentions chapter 552, Government Code. TPPA supported clarifying the rule to ensure that the confidentiality obligations of PURA §39.1516(h) are extended to the language of the proposed rule.

Oncor, TNMP, and LCRA proposed adding the phrase "and must be protected in accordance with the confidentiality standards established in PURA, the ERCOT protocols, commission rules, and other applicable laws" to the provision in §25.367(l)(3) that makes ERCOT's annual report under §25.367(l)(2) confidential and not subject to disclosure under chapter 552, Government Code.

#### Commission Response

**The commission agrees with the concerns of TPPA and LCRA on strengthening the confidentiality provisions of §25.367(l) and modifies the rule accordingly.**

*Comments on §25.367(m) (Participation in the cybersecurity monitor program)*

Oncor and TNMP recommended replacing the word "must" with "may" in §25.367(m)(1), relating to participation by monitored utilities in the cybersecurity monitor program, to reflect the voluntary aspect of the legislation that makes submission of monitored utilities' self-assessments to the cybersecurity monitor voluntary.

#### Commission Response

**The commission declines to change the word "must" to "may" in §25.367(m)(1). SB 936 defines the term "monitored utility" and requires establishment of a cybersecurity monitor program for those entities. Although the level and nature of participation is at the discretion of the monitored utility, certain elements of the program, such as contributing to the funding of the cybersecurity monitor, are not.**

The Integrated Utilities stated that if the fee for participation in the cybersecurity monitor program is based on how many non-ERCOT utilities elect to participate, a conflict could exist between proposed §25.367(m)(2)(A)(i) that encourages non-ERCOT utilities to provide intent to participate in the program by December 1 prior to the program year, and proposed §25.367(n)(2)(B)(ii), which requires ERCOT to post the fee to participate in the pro-

gram by October 1st of the preceding program year. The Integrated Utilities recommended that this issue be addressed.

The Integrated Utilities recommended that proposed §25.367(m)(2)(B)(ii) be modified to allow proration of payments relating to participation in the cybersecurity monitor program in the event that activities under the cybersecurity monitor are suspended or impaired due to inaction of the cybersecurity monitor; or the cybersecurity monitor fails to maintain the qualifications required under this section. The Integrated Utilities also recommended that the phrase "and must notify the commission and the cybersecurity monitor, through an ERCOT-prescribed process, of its intent to discontinue participation" be added to §25.367(m)(2)(B)(iii) to reflect this requirement in PURA §36.213(3)(d)(1).

#### Commission Response

**The commission declines to make changes to proposed §25.367(m) in response to the comments of the Integrated Utilities. In establishing the proposed process for monitored utilities outside the ERCOT region to contribute to the cost of the cybersecurity monitor, the commission must achieve a balance among several factors, and proposed §25.367(m) properly balances those factors. First, ERCOT must have a general idea which utilities intend to participate in order to calculate an appropriate fee. Second, a non-ERCOT utility must know the approximate cost commitment being undertaken in deciding to participate. Finally, administrative costs associated with funding of the program should be minimized while still achieving program goals. The proposed rule reflects that balance appropriately. The commission modifies §25.367(m)(2) by removing an unnecessary sentence because the definition of monitored utility in §25.367(c)(4) includes utilities that operate solely outside the ERCOT power region that have elected to participate in the cybersecurity monitoring program.**

*Comments on §25.367(n) (Cost recovery)*

The Integrated Utilities proposed that the costs paid by a monitored utility outside of the ERCOT power region be deemed reasonable and necessary and allowed for purposes of PURA §36.213(b). The Integrated Utilities stated that the addition makes sense because the costs are beyond the control of a monitored utility; and the addition encourages participation in the cybersecurity monitor program.

OPUC responded to the Integrated Utilities' comments by stating that deeming an electric utility's costs for participation in the cybersecurity monitor program to be reasonable and necessary creates a presumption of reasonableness that is inconsistent with PURA §36.006. OPUC stated that the standard for determining whether a cost is reasonable and necessary for purposes of recovery in rates is rooted in §25.231(b), relating to cost of service, and is based on whether a cost is reasonable and necessary to provide service to the public. OPUC asserted that a monitored utility's recovery of costs in connection with participation in the cybersecurity monitor program is similar to an electric utility's recovery of costs for participating in the competitive renewable energy zone monitor program and should be treated similarly. OPUC stated that in the final order in Commission Staff's Petition for Selection of Entities Responsible for Transmission Improvements Necessary to Deliver Renewable Energy for Competitive Renewable-Energy Zones, Docket No. 35665 at 20 (Mar. 30, 2009), the commission allowed recovery of costs but did not impose a presumption of reasonableness. Consistent

with the precedent set in Docket No. 35665, OPUC proposed an addition to §25.367(n) to allow a monitored utility to seek recovery of its costs for participating in the program in a base rate case.

### Commission Response

**The commission declines to address cost recovery in this new rule. The commission's existing rules on cost recovery are applicable to the costs incurred in connection with the cybersecurity coordination and cybersecurity monitor programs. In particular, §25.231(b) provides for recovery of "expenses which are reasonable and necessary to provide service to the public." Accordingly, it is unnecessary to address recovery of such costs in this rule because a utility can request recovery of its costs in a rate case and the commission can at that time review those costs and make a determination about their inclusion in rates.**

#### *Comments on §25.367(n) (Funding of the cybersecurity monitor)*

TEC recommended that §25.367(n) be modified to clarify that the fee paid by monitored utilities outside of the ERCOT power region will be assessed in a manner that reflects the size of the participating system. TEC suggested that the fee could be designed in a manner similar to the ERCOT system administrative fee which varies based on the load-ratio share of the entity.

### Commission Response

**The commission declines to require that the fee paid by monitored utilities reflect the size of the participating system. The rule requires ERCOT to obtain approval of the fee amount and calculation methodology from the commission's executive director. This process allows for consideration of all relevant factors in determining the calculation methodology for the fee. The commission modifies §25.367(n)(2)(B) because the rule is being adopted after May 1, 2020.**

All comments, including any not specifically referenced herein, were fully considered by the commission. In adopting this section, the commission makes other modifications for the purpose of clarifying its intent.

This new section is adopted under §14.002 of the Public Utility Regulatory Act, Tex. Util. Code Ann., which provides the commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction; and specifically, PURA §31.052, which grants the commission the authority to establish a cybersecurity coordination program, and PURA §39.1516, which grants the commission authority to adopt rules as necessary to implement statute relating to the cybersecurity monitor and the cybersecurity monitor program.

Cross reference to statutes: Public Utility Regulatory Act §§14.002, 31.052, and 39.1516.

#### *§25.367. Cybersecurity Monitor.*

(a) Purpose. This section establishes requirements for the commission's cybersecurity coordination program, the cybersecurity monitor program, the cybersecurity monitor, and participation in the cybersecurity monitor program; and establishes the methods to fund the cybersecurity monitor.

(b) Applicability. This section is applicable to all electric utilities, including transmission and distribution utilities; corporations described in Public Utility Regulatory Act (PURA) §32.053; municipally owned utilities; electric cooperatives; and the Electric Reliability Council of Texas (ERCOT).

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

(1) Cybersecurity monitor -- The entity selected by the commission to serve as the commission's cybersecurity monitor and its staff.

(2) Cybersecurity coordination program -- The program established by the commission to monitor the cybersecurity efforts of all electric utilities, municipally owned utilities, and electric cooperatives in the state of Texas.

(3) Cybersecurity monitor program -- The comprehensive outreach program for monitored utilities managed by the cybersecurity monitor.

(4) Monitored utility -- A transmission and distribution utility; a corporation described in PURA §32.053; a municipally owned utility or electric cooperative that owns or operates equipment or facilities in the ERCOT power region to transmit electricity at 60 or more kilovolts; or an electric utility, municipally owned utility, or electric cooperative that operates solely outside the ERCOT power region that has elected to participate in the cybersecurity monitor program.

(d) Selection of the Cybersecurity Monitor. The commission and ERCOT will contract with an entity selected by the commission to act as the commission's cybersecurity monitor. The cybersecurity monitor must be independent from ERCOT and is not subject to the supervision of ERCOT. The cybersecurity monitor operates under the supervision and oversight of the commission.

(e) Qualifications of Cybersecurity Monitor.

(1) The cybersecurity monitor must have the qualifications necessary to perform the duties and responsibilities under subsection (f) of this section.

(2) The cybersecurity monitor must collectively possess technical skills necessary to perform cybersecurity monitoring functions, including the following:

(A) developing, reviewing, and implementing cybersecurity risk management programs, cybersecurity policies, cybersecurity strategies, and similar documents;

(B) working knowledge of North American Electric Reliability Corporation Critical Infrastructure Protection (NERC CIP) standards and implementation of those standards; and

(C) conducting vulnerability assessments.

(3) The cybersecurity monitor staff are subject to background security checks as determined by the commission.

(4) Every cybersecurity monitor staff member who has access to confidential information must each have a federally-granted secret level clearance and maintain that level of security clearance throughout the term of the contract.

(f) Responsibilities of the cybersecurity monitor. The cybersecurity monitor will gather and analyze information and data provided by ERCOT and voluntarily disclosed by monitored utilities and cybersecurity coordination program participants to manage the cybersecurity coordination program and the cybersecurity monitor program.

(1) Cybersecurity Coordination Program. The cybersecurity coordination program is available to all electric utilities, municipally owned utilities, and electric cooperatives in the state of Texas. The cybersecurity coordination program must include the following functions:

- (A) guidance on best practices in cybersecurity;
- (B) facilitation of sharing cybersecurity information among utilities;
- (C) research and development of best practices regarding cybersecurity;

(D) guidance on best practices for cybersecurity controls for supply chain risk management of cybersecurity systems used by utilities, which may include, as applicable, best practices related to:

- (i) software integrity and authenticity;
- (ii) vendor risk management and procurement controls, including notification by a vendor of incidents related to the vendor's products and services; and
- (iii) vendor remote access.

(2) **Cybersecurity Monitor Program.** The cybersecurity monitor program is available to all monitored utilities. The cybersecurity monitor program must include the functions of the cybersecurity coordination program listed in paragraph (1) of this subsection in addition to the following functions:

(A) holding regular meetings with monitored utilities to discuss emerging threats, best business practices, and training opportunities;

(B) reviewing self-assessments of cybersecurity efforts voluntarily disclosed by monitored utilities; and

(C) reporting to the commission on monitored utility cybersecurity preparedness.

(g) **Authority of the Cybersecurity Monitor.**

(1) The cybersecurity monitor has the authority to conduct monitoring, analysis, reporting, and other activities related to information voluntarily provided by monitored utilities.

(2) The cybersecurity monitor has the authority to request, but not to require, information from a monitored utility about activities that may be potential cybersecurity threats.

(h) **Ethics standards governing the Cybersecurity Monitor.**

(1) During the period of a person's service with the cybersecurity monitor, the person must not:

(A) have a direct financial interest in the provision of electric service in the state of Texas; or have a current contract to perform services for any entity as described by PURA §31.051 or a corporation described by PURA §32.053.

(B) serve as an officer, director, partner, owner, employee, attorney, or consultant for ERCOT or any entity as described by PURA §31.051 or a corporation described by PURA §32.053;

(C) directly or indirectly own or control securities in any entity, an affiliate of any entity, or direct competitor of any entity as described by PURA §31.051 or a corporation described by PURA §32.053, except that it is not a violation of this rule if the person indirectly owns an interest in a retirement system, institution or fund that in the normal course of business invests in diverse securities independently of the control of the person; or

(D) accept a gift, gratuity, or entertainment from ERCOT, any entity, an affiliate of any entity, or an employee or agent of any entity as described by PURA §31.051 or a corporation described by PURA §32.053.

(2) The cybersecurity monitor must not directly or indirectly solicit, request from, suggest, or recommend to any entity, an affiliate of any entity, or an employee or agent of any entity as described by PURA §31.051 or a corporation described by PURA §32.053, the employment of a person by any entity as described by PURA §31.051 or a corporation described by PURA §32.053 or an affiliate.

(3) The commission may impose post-employment restrictions for the cybersecurity monitor and its staff.

(i) **Confidentiality standards.** The cybersecurity monitor and commission staff must protect confidential information and data in accordance with the confidentiality standards established in PURA, the ERCOT protocols, commission rules, and other applicable laws. The requirements related to the level of protection to be afforded information protected by these laws and rules are incorporated in this section.

(j) **Reporting requirement.** All reports prepared by the cybersecurity monitor must reflect the cybersecurity monitor's independent analysis, findings, and expertise. The cybersecurity monitor must prepare and submit to the commission:

(1) monthly, quarterly, and annual reports; and

(2) periodic or special reports on cybersecurity issues or specific events as directed by the commission or commission staff.

(k) **Communication between the Cybersecurity Monitor and the commission.**

(1) The personnel of the cybersecurity monitor may communicate with the commission and commission staff on any matter without restriction consistent with confidentiality requirements.

(2) The cybersecurity monitor must:

(A) immediately report directly to the commission and commission staff any cybersecurity concerns that the cybersecurity monitor believes would pose a threat to continuous and adequate electric service or create an immediate danger to the public safety, and notify the affected utility or utilities of the information reported to the commission or commission staff;

(B) regularly communicate with the commission and commission staff, and keep the commission and commission staff apprised of its activities, findings, and observations;

(C) coordinate with the commission and commission staff to identify priorities; and

(E) coordinate with the commission and commission staff to assess the resources and methods for cybersecurity monitoring, including consulting needs.

(l) **ERCOT's responsibilities and support role.** ERCOT must provide to the cybersecurity monitor any access, information, support, or cooperation that the commission determines is necessary for the cybersecurity monitor to perform the functions described by subsection (f) of this section.

(1) ERCOT must conduct an internal cybersecurity risk assessment, vulnerability testing, and employee training to the extent that ERCOT is not otherwise required to do so under applicable state and federal cybersecurity and information security laws.

(2) ERCOT must submit an annual report to the commission on ERCOT's compliance with applicable cybersecurity and information security laws by January 15 of each year or as otherwise determined by the commission.

(3) Information submitted in the report under paragraph (2) of this subsection is confidential and not subject to disclosure under



chapter 552, Government Code, and must be protected in accordance with the confidentiality standards established in PURA, the ERCOT protocols, commission rules, and other applicable laws.

(m) Participation in the cybersecurity monitor program.

(1) A transmission and distribution utility, a corporation described in PURA §32.053, and a municipally owned utility or electric cooperative that owns or operates equipment or facilities in the ERCOT power region to transmit electricity at 60 or more kilovolts must participate in the cybersecurity monitor program.

(2) An electric utility, municipally owned utility, or electric cooperative that operates solely outside the ERCOT power region may elect to participate in the cybersecurity monitor program.

(A) An electric utility, municipally owned utility, or electric cooperative that elects to participate in the cybersecurity monitor program must annually:

(i) file with the commission its intent to participate in the program and to contribute to the costs of the cybersecurity monitor's activities in the project established by commission staff for this purpose; and

(ii) complete and submit to ERCOT the participant agreement form available on the ERCOT website to furnish information necessary to determine and collect the monitored utility's share of the costs of the cybersecurity monitor's activities under subsection (n) of this section.

(B) The cybersecurity monitor program year is the calendar year. An electric utility, municipally owned utility, or electric cooperative that elects to participate in the cybersecurity monitor program must file its intent to participate and complete the participant agreement form under subparagraph (A) of this subsection for each calendar year that it intends to participate in the program.

(i) Notification of intent to participate and a completed participant agreement form may be submitted at any time during the program year, however, an electric utility, municipally owned utility, or electric cooperative that elects to participate in an upcoming program year is encouraged to complete these steps by December 1 prior to the program year in order to obtain the benefit of participation for the entire program year.

(ii) The cost of participation is determined on an annual basis and will not be prorated.

(iii) A monitored utility that operates solely outside of the ERCOT power region may discontinue its participation in the cybersecurity monitor program at any time but is required to pay the annual cost of participation for any calendar year in which the monitored utility submitted a notification of intent to participate.

(3) Each monitored utility must designate one or more points of contact who can answer questions the Cybersecurity Monitor may have regarding a monitored utility's cyber and physical security activities.

(n) Funding of the Cybersecurity Monitor.

(1) ERCOT must use funds from the rate authorized by PURA §39.151(e) to pay for the cybersecurity monitor's activities.

(2) A monitored utility that operates solely outside of the ERCOT power region must contribute to the costs incurred for the cybersecurity monitor's activities.

(A) On an annual basis, ERCOT must calculate the non-refundable, fixed fee that a monitored utility that operates solely outside

of the ERCOT power region must pay in order to participate in the cybersecurity monitor program for the upcoming calendar year.

(B) ERCOT must file notice of the fee in the project designated by the commission for this purpose and post notice of the fee on the ERCOT website by October 1 of the preceding program year.

(C) Before filing notice of the fee as required by paragraph (2)(B) of this subsection, ERCOT must obtain approval of the fee amount and calculation methodology from the commission's executive director.

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

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## SUBCHAPTER R. CUSTOMER PROTECTION RULES FOR RETAIL ELECTRIC SERVICE

### 16 TAC §25.471

The Public Utility Commission of Texas (commission) adopts amendments to 16 Texas Administrative Code (TAC) §25.471, relating to general provisions of customer protection rules, with changes to the proposed text as published in the January 31, 2020, issue of the *Texas Register* (45 TexReg 681).

The amendments align the language of 16 TAC §25.471 with the requirements of Public Utility Regulatory Act (PURA) §39.3555, enacted as Senate Bill 1497 by the 86th Texas Legislature, Regular Session. The amendments also synchronize 16 TAC §25.471 with new 16 TAC §25.112, (relating to Registration of Brokers), and new 16 TAC §25.486 (relating to Customer Protections for Brokerage Services), as adopted in Project No. 49794, Rulemaking for Broker Registrations. Specifically, the amendments clarify that, where specifically stated, 16 TAC Chapter 25, Subchapter R (relating to Customer Protection Rules for Retail Electric Service) applies to brokers. The amendments also make other modifications to §25.471 to reflect new 16 TAC §25.112 and §25.486 as well as make other minor changes. The amendments are adopted under Project No. 50406.

The commission received comments on the proposed amendments from the Alliance for Retail Markets (ARM), the Office of Public Utility Counsel (OPUC), and The Energy Professionals Association (TEPA). These comments were filed after the commission issued its proposal for publication in Project No. 49794, but before the commission adopted a final rule in that project. Several of the filed comments in this project reference provisions of the commission's proposed language in Project No. 49794. For clarity, in this preamble, the commission will reference rule provisions from the commission's proposed new rules in Project No. 49794 as "proposed" and rule provisions from the final rules in Project No. 49794 as "adopted."

## General Comments

OPUC appreciated the commission's efforts to amend 16 TAC §25.471 to clarify that the "(c)ommission's general provisions of customer protection rules apply to brokers in the same manner that the (c)ommission's general provisions of customer protection rules apply to aggregators." OPUC stated that these changes are consistent with the legislative intent of PURA §39.3555 (for consistency, commenter references to Senate Bill 1497 are summarized as referencing PURA §39.3555) and serve to provide consistency with the new sections proposed in Project No. 49794.

ARM supported the approach taken in the proposal and agreed that this additional rulemaking will facilitate the intent of PURA §39.3555 to bring brokers within the scope of the commission's general customer protection rules and help to prevent any gaps in the coverage of such provisions.

## Commission Response

**The commission makes no changes in response to these comments as none are requested.**

**The commission notes that the changes made to 16 TAC §25.471 in this project do not uniformly apply the commission's customer protection rules to brokers "in the same manner that the (c)ommission's general provisions of customer protection rules apply to aggregators," as described by OPUC. The provisions of Subchapter R apply to brokers when specifically stated. Currently, brokers are specifically referenced in adopted 16 TAC §25.486. Accordingly, the provisions of adopted 16 TAC §25.486 and any other provisions of Subchapter R referenced by 16 TAC §25.486, either explicitly or implicitly, apply to brokers.**

TEPA stated that, consistent with its comments in Project No. 49794, it continued to advocate for a simple and easily administered registration process as expressed in statute. TEPA argued that the registration process should apply fairly, equitably, and in a competitively neutral, non-discriminatory manner to any business acting on behalf of a retail electric customer and being compensated to help a customer choose a retail electric provider (REP), product, or service.

## Commission Response

**The commission makes no changes in response to this comment as the broker registration process is outside of the scope of this project.**

*Comments on the amendments to 16 TAC §25.471(a)*

ARM agreed with and supported the addition of "brokers" to the first sentence of 16 TAC §25.471(a).

## Commission Response

**The commission makes no changes in response to ARM's comment as none are requested.**

*Comments on the amendments to 16 TAC §25.471(a)(3)*

Under 16 TAC §25.471(a)(3), certain "customers" can agree to a different level of customer protections than is required under Subchapter R. ARM referenced its recommendation in Project No. 49794 that persons who receive brokerage services from a broker be referred to as "customers" rather than "clients." ARM suggested in Project No. 50406 that if the commission declines to accept its prior recommendation, that the commission modify 16 TAC §25.471(a)(3) to also recognize the ability of certain

"clients" to agree to a different level of customer protections than is required by Subchapter R of the commission's rules.

## Commission Response

**Adopted 16 TAC §25.486 did not replace all instances of the word "client" with "customer," as requested by ARM. However, the commission declines to modify the language of 16 TAC §25.471(a)(3) to clarify that clients can also agree to a different level of customer protections than required by Subchapter R. This provision addresses the customer protections a person is entitled to as a customer, which under 16 TAC §25.471(d)(4) requires the person to be currently receiving retail electric service from a REP, and how, as a customer, it can agree to a different level of customer protections by written agreement. To the extent that a broker's client becomes a customer of a retail electric provider, this language still applies to that client with regards to its retail electric service.**

Proposed 16 TAC §25.486(c) allowed certain clients to agree to a different level of customer protections related to the provision of brokerage services than is provided by that section, provided that the agreement is in writing and the broker provides the agreement to commission staff upon request. TEPA filed comments in Project No. 49794 requesting that a broker only be required to provide "relevant portions" of the agreement to the commission. In Project No. 50406, ARM referenced TEPA's request in Project No. 49794 and recommended that if the commission granted TEPA's request, the commission should make a similar change to 16 TAC §25.471(a)(3), which imposes a similar requirement on customer protection agreements made by customers. ARM argued that the same standard should apply to all customer-facing entities.

## Commission Response

**The commission declines to adopt ARM's recommendation that the commission limit the disclosure of agreements limiting customer protections to the "relevant portions" of those agreements. Modifying the customer protection requirements that apply to contracts for retail electric service is outside of the scope of this project. Moreover, ARM's recommendation was conditioned upon the commission adopting similar language at the request of TEPA in Project No. 49794. The commission did not adopt TEPA's recommended language in Project No. 49794.**

Under 16 TAC §25.471(a)(3), there are exceptions to the customer protection provisions that a customer can agree to modify. These sections include 16 TAC §25.495 (relating to Unauthorized Change of Retail Electric Provider), 16 TAC §25.481 (relating to Unauthorized Charges), and 16 TAC §25.485(a) - (b) (relating to Customer Access and Complaint Handling).

In Project No. 49794, ARM requested that the commission adopt a new section that prohibited unauthorized charges (commonly referred to as "cramming") and unauthorized changes of provider (commonly referred to as "slamming") by brokers. In Project No. 50406, ARM argued that if the commission adopted slamming and cramming prohibitions in Project No. 49794, it should add those provisions to the list of sections that a customer is not permitted to modify under 16 TAC §25.471(a)(3). ARM argued that doing so would be consistent with the current exceptions in 16 TAC §25.471(a)(3). ARM asserted that not including such a provision in 16 TAC §25.471(a)(3) could result in customers that utilize brokerage services being slammed or crammed by brokers with no recourse under the commission's rules.

ARM further noted that, "for the same reasons," the commission should add proposed 16 TAC §25.486(k) (relating to Customer Service and Complaint Handling) to the list of exceptions to the waiver provisions of 16 TAC §25.471(a)(3).

#### **Commission Response**

**Adopted 16 TAC §25.486(h) prohibits slamming and cramming by brokers, as requested by ARM in Project No. 49794. Specifically, a broker "must not bill an unauthorized charge or cause an unauthorized charge to be billed to a customer's retail electric service bill," and a broker "must not switch or cause to be switched the REP of a customer without first obtaining the customer's authorization." However, the commission declines to add 16 TAC §25.486(h) to the list of customer protections in 16 TAC §25.471(a)(3) that a customer is not permitted to agree to modify.**

Unlike the nuanced procedures established by 16 TAC §§25.481 and 25.495, adopted 16 TAC §25.486(h) is a straightforward prohibition against slamming and cramming by brokers. Accordingly, there are very few scenarios in which, for example, a client could explicitly agree in writing to allow a broker to bill charges that would be considered "unauthorized." The large customers that are eligible to agree to a different level of customer protections under adopted 16 TAC §25.486(h) are sophisticated enough to identify these scenarios and determine if they are willing to agree to them. Moreover, some of these scenarios may be desirable for certain customers. For example, a large commercial client may wish to give a broker complete discretion over the company's electric service decisions. If the client wishes to reduce the broker's potential regulatory liabilities by waiving 16 TAC §25.486(h), the commission will not prevent it from doing so.

Similarly, if a sophisticated large client wishes to agree to a lower level of client access and complaint handling than is provided by adopted 16 TAC §25.486(k), the commission will not prohibit it from doing so.

Brokerage services are inherently discretionary. If a sophisticated large client opts to retain the services of a broker, the client is responsible for determining what services the broker will provide and the protections that the client expects to receive. Moreover, the client is not left without recourse, as suggested by ARM, as it is still free to pursue civil remedies if it believes the broker exceeded its authorizations under the contract.

ARM noted that under 16 TAC §25.5(13) (relating to Definitions), the term "commission" is defined as the Public Utility Commission of Texas, which PURA §12.051 defines as being "composed of the three commissioners appointed by the governor with the advice and consent of the senate." ARM argued that while the requirement to provide copies of agreements under §25.471(a)(3) has generally been interpreted to read "commission" as "commission staff," the commission's rules tend to distinguish between the two. Given the opportunity to correct for any potential confusion in this rulemaking while conforming the rule's language with its practical effect, ARM recommended replacing the term "the commission" with "commission staff."

#### **Commission Response**

The commission declines to adopt ARM's recommendation that "the commission" be replaced with "commission staff" at this time. As noted by ARM, this rule has been interpreted

**to require a copy of an agreement under §25.471(a)(3) to be provided to commission staff upon request. Accordingly, no change is necessary.**

#### *Comments on the amendments to 16 TAC §25.471(b)(4)*

The commission's proposal modified the purpose provisions of 16 TAC §25.471(b) by amending paragraph (b)(4) to read as follows: the purposes of this subchapter are to "prohibit fraudulent, unfair, misleading, deceptive or anticompetitive acts and practices by aggregators, REPs, and brokers in the marketing, solicitation and sale of electric service and in the administration of any terms of service for electric service."

TEPA argued that the proposed revisions to 16 TAC §25.471(b) should more clearly recognize and distinguish between the services lawfully provided by brokers and the retail electric services lawfully provided by REPs. Specifically, TEPA argued that brokers do not market, solicit, or sell retail electric services and the proposed amendments would mislead brokers, customers, and other market participants into believing brokers do engage in those activities. TEPA was also concerned that the proposed amendments imply that brokers are offering services they are legally prohibited from providing. TEPA recommended striking "brokers" from 16 TAC §25.471(b)(4) and adding a new 16 TAC §25.471(b)(5) prohibiting "fraudulent, unfair, misleading, deceptive, or anticompetitive acts and practices by brokers when providing advice or procurement services to, or acting on behalf of, a retail electric customer regarding the selection of a retail electric provider, or a product or service offered by a retail electric provider."

#### **Commission Response**

The commission declines to remove brokers from 16 TAC §25.471(b)(4), as requested by TEPA. One purpose of Subchapter R is to protect customers from fraudulent, unfair, misleading, deceptive, or anticompetitive acts and practices relating to their electric service, whether those acts and practices are carried out by REPs, aggregators, or brokers.

The commission does not agree that this provision implies that brokers are offering services they are legally prohibited from providing. Under PURA §39.3555, a broker is prohibited from selling or taking title to electric energy, but it is not prohibited from engaging in all of the activities listed in 16 TAC §25.471(b)(4). For example, many brokers market a variety of retail electric products to their clients. Accordingly, one of the purposes of Subchapter R is to ensure that brokers do not market these products in a manner that is fraudulent, unfair, misleading, deceptive.

The commission also does not share TEPA's concern that this language will mislead brokers, customers, or other market participants as to the role that brokers play in the market. The function of subsection (b) is to establish the purpose of Subchapter R, which is to provide individuals with appropriately robust customer protections. It does not authorize or prohibit any particular behaviors or define the specific roles of any market participant.

The commission also declines to add a new provision to 16 TAC §25.471(b) as requested by TEPA. Instead, the commission modifies 16 TAC §25.471(b)(4) to incorporate TEPA's proposed language. This makes it clear that one purpose of Subchapter R is to prohibit fraudulent, misleading, deceptive, or anticompetitive acts and practices whether they are

**in reference to retail electric service or brokerage services, regardless of whether the prohibited act is committed by a REP, an aggregator, or a broker.**

*Comments on the amendments to 16 TAC §25.471(d)*

TEPA recommended that the commission adopt a stand-alone definition of "REP Agent." TEPA is concerned that REP agents, which are currently undefined in the commission's rules, actually provide services described and attributed to brokers in the proposed changes to §25.471(b)(4).

#### **Commission Response**

**The commission declines to adopt a definition of REP agent, as requested by TEPA. This recommendation falls outside the scope of this project, which is to harmonize the language of 16 TAC §25.471 with PURA §39.3555 and adopted sections 16 TAC §§25.112 and 25.486.**

In Project No. 49794, ARM recommended that the commission replace the term "client" throughout proposed 16 TAC §25.486 with "customer." In Project No. 50406, ARM argued that if the commission opted to use "client" in adopted 16 TAC §25.486 instead of making ARM's recommended modification, that the definition of "applicant" in 16 TAC §25.471 should include a reference to brokers and brokerage services. ARM is concerned that an applicant for brokerage services will fall outside of the commission's customer protection rules.

#### **Commission Response**

**The commission declines to modify the definition of applicant to include a reference to brokers and brokerage services, as requested by ARM. The term "applicant" is used throughout Subchapter R and modifying it to include a reference to brokers and brokerage services would create a number of inconsistencies with the specific customer protections for brokerage services in adopted 16 TAC §25.486.**

**The commission does not share ARM's concern about the applicability of adopted 16 TAC §25.486 to potential customers of brokers. Adopted 16 TAC §25.486(b)(3) defines client as a "person who receives or solicits brokerage services from a broker." A potential customer of a broker, as described by ARM, is a person who is soliciting brokerage services from a broker, and therefore, is a client of that broker for purposes of the customer protection rules of 16 TAC §25.486.**

All comments, including any not specifically referenced herein, were fully considered by the commission. In adopting these amendments, the commission makes other minor modifications for the purpose of clarifying its intent.

This amendment is adopted under PURA §14.002, which provides the commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction; and §39.3555, which requires entities that provide brokerage services in this state to register as brokers with the commission and to comply with customer protection provisions established by the commission and Chapters 17 and 39 of PURA, and which requires the commission to adopt rules as necessary to implement the section.

Cross reference to statutes: Public Utility Regulatory Act §14.002 and §39.3555.

§25.471. *General Provisions of Customer Protection Rules.*

(a) Application. This subchapter applies to aggregators and retail electric providers (REPs). In addition, where specifically stated, these rules apply to transmission and distribution utilities (TDUs), the registration agent, brokers and power generation companies. These rules specify when certain provisions are applicable only to some, but not all, of these providers.

(1) Affiliated REP customer protection rules, to the extent the rules differ from those applicable to all REPs or those that apply to the provider of last resort (POLR), do not apply to the affiliated REP when serving customers outside the geographic area served by its affiliated transmission and distribution utility. The affiliated REP customer protection rules apply until the price-to-beat obligation ends in the affiliated REPs' affiliated TDU service territory.

(2) Requirements applicable to a POLR apply to a REP only in its provision of service as a POLR.

(3) The rules in this subchapter are minimum, mandatory requirements that must be offered to or complied with for all customers unless otherwise specified. Except for the provisions of §25.495 of this title (relating to Unauthorized Change of Retail Electric Provider), §25.481 of this title (relating to Unauthorized Charges), and §25.485(a) - (b) of this title (relating to Customer Access and Complaint Handling), a customer other than a residential or small commercial class customer, or a non-residential customer whose load is part of an aggregation in excess of 50 kilowatts, may agree to terms of service that reflect either a higher or lower level of customer protections than would otherwise apply under these rules. Any agreements containing materially different protections from those specified in these rules must be reduced to writing and provided to the customer. Additionally, copies of such agreements must be provided to the commission upon request.

(4) The rules of this subchapter control over any inconsistent provisions, terms, or conditions of a REP's terms of service or other documents describing service offerings for customers in Texas.

(5) For purposes of this subchapter, a municipally owned utility or electric cooperative is subject to the same provisions as a REP where the municipally owned utility or electric cooperative sells retail electricity service outside its certificated service area.

(b) Purpose. The purposes of this subchapter are to:

(1) provide minimum standards for customer protection. An aggregator or REP may adopt higher standards for customer protection, provided that the prohibition on discrimination set forth in subsection (c) of this section is not violated;

(2) provide customer protections and disclosures established by other state and federal laws and rules including but not limited to the Fair Credit Reporting Act (15 U.S.C. §1681, et seq.) and the Truth in Lending Act (15 U.S.C. §1601, et seq.). Such protections are applicable where appropriate, whether or not it is explicitly stated in these rules;

(3) provide customers with sufficient information to make informed decisions about electric service in a competitive market; and

(4) prohibit fraudulent, unfair, misleading, deceptive, or anticompetitive acts and practices by aggregators, REPs, and brokers in the marketing, solicitation and sale of electric service, in the administration of any terms of service for electric service and in providing advice or procurement services to, or acting on behalf of, a retail electric customer regarding the selection of a retail electric provider, or a product or service offered by a retail electric provider.

(c) Prohibition against discrimination. This subchapter prohibits REPs from unduly refusing to provide electric service or otherwise unduly discriminating in the marketing and provision of electric

service to any customer because of race, creed, color, national origin, ancestry, sex, marital status, lawful source of income, level of income, disability, familial status, location of customer in an economically distressed geographic area, or qualification for low-income or energy efficiency services.

(d) Definitions. For the purposes of this subchapter the following words and terms have the following meaning, unless the context indicates otherwise:

(1) Applicant--A person who applies for electric service via a move-in or switch with a REP that is not currently the person's REP of record or applies for aggregation services with an aggregator from whom the person is not currently receiving aggregation services.

(2) Burned Veteran--A customer who is a military veteran who a medical doctor certifies has a significantly decreased ability to regulate body temperature because of severe burns received in combat.

(3) Competitive energy services--As defined in §25.341 of this title (relating to Definitions).

(4) Customer--A person who is currently receiving retail electric service from a REP in the person's own name or the name of the person's spouse, or the name of an authorized representative of a partnership, corporation, or other legal entity, including a person who is changing premises but is not changing their REP.

(5) Electric service--Combination of the transmission and distribution service provided by a transmission and distribution utility, municipally owned utility, or electric cooperative, metering service provided by a TDU or a competitive metering provider, and the generation service provided to an end-use customer by a REP. This term does not include optional competitive energy services, as defined in §25.341 of this title, that are not required for the customer to obtain service from a REP.

(6) Energy service--As defined in §25.223 of this title (relating to Unbundling of Energy Service).

(7) Enrollment--The process of obtaining authorization and verification for a request for service that is a move-in or switch in accordance with this subchapter.

(8) In writing--Written words memorialized on paper or sent electronically.

(9) Move-in--A request for service to a new premise where a customer of record is initially established or to an existing premise where the customer of record changes.

(10) Retail electric provider (REP)--Any entity as defined in §25.5 of this title (relating to Definitions). For purposes of this rule, a municipally owned utility or an electric cooperative is only considered a REP where it sells retail electric power and energy outside its certified service territory. An agent of the REP may perform all or part of the REP's responsibilities pursuant to this subchapter. For purposes of this subchapter, the REP will be responsible for the actions of the agent.

(11) Small commercial customer--A non-residential customer that has a peak demand of less than 50 kilowatts during any 12-month period, unless the customer's load is part of an aggregation program whose peak demand is in excess of 50 kilowatts during the same 12-month period.

(12) Switch--The process by which a person changes REPs without changing premises.

(13) Termination of service--The cancellation or expiration of a service agreement or contract by a REP or customer.

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

Filed with the Office of the Secretary of State on May 15, 2020.

TRD-202001944

Andrea Gonzalez

Rules Coordinator

Public Utility Commission of Texas

Effective date: June 4, 2020

Proposal publication date: January 31, 2020

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

## TITLE 22. EXAMINING BOARDS

### PART 22. TEXAS STATE BOARD OF PUBLIC ACCOUNTANCY

#### CHAPTER 501. RULES OF PROFESSIONAL CONDUCT

##### SUBCHAPTER A. GENERAL PROVISIONS

###### 22 TAC §501.51

The Texas State Board of Public Accountancy adopts an amendment to §501.51, concerning Preamble and General Principles, without changes to the proposed text as published in the March 27, 2020, issue of the *Texas Register* (45 TexReg 2133). The rule will not be republished.

The amendment to §501.51 relocates a portion of the definition of the practice of public accountancy so that the complete definition may be found in one location.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

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

Filed with the Office of the Secretary of State on May 14, 2020.

TRD-202001916

J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

Effective date: June 3, 2020

Proposal publication date: March 27, 2020

For further information, please call: (512) 305-7842

###### 22 TAC §501.52

The Texas State Board of Public Accountancy adopts an amendment to §501.52, concerning Definitions, without changes to the proposed text as published in the March 27, 2020, issue of the

*Texas Register* (45 TexReg 2134). The rule will not be republished.

The amendment to §501.52 corrects three typographical errors in the current rule and locates the complete definition of the practice of public accountancy in the definition of professional accounting services.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

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

Filed with the Office of the Secretary of State on May 14, 2020.

TRD-202001917

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Texas State Board of Public Accountancy

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For further information, please call: (512) 305-7842



## SUBCHAPTER C. RESPONSIBILITIES TO CLIENTS

### 22 TAC §501.73

The Texas State Board of Public Accountancy adopts an amendment to §501.73, concerning Integrity and Objectivity, without changes to the proposed text as published in the March 27, 2020, issue of the *Texas Register* (45 TexReg 2136). The rule will not be republished.

The amendment to §501.73 requires the disclosure in writing of a relationship with another person, entity, product, or service that the licensee is offering to his client that could be viewed as a conflict of interest.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

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

Filed with the Office of the Secretary of State on May 14, 2020.

TRD-202001918

J. Randel (Jerry) Hill

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For further information, please call: (512) 305-7842



### 22 TAC §501.75

The Texas State Board of Public Accountancy adopts an amendment to §501.75, concerning Confidential Client Communications, without changes to the proposed text as published in the March 27, 2020, issue of the *Texas Register* (45 TexReg 2138). The rule will not be republished.

The amendment to §501.75 updates the citation of the Texas Securities Act.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

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

Filed with the Office of the Secretary of State on May 14, 2020.

TRD-202001919

J. Randel (Jerry) Hill

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Texas State Board of Public Accountancy

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For further information, please call: (512) 305-7842



### 22 TAC §501.76

The Texas State Board of Public Accountancy adopts an amendment to §501.76, concerning Records and Work Papers, without changes to the proposed text as published in the March 27, 2020 issue of the *Texas Register* (45 TexReg 2139). The amended rule will not be republished.

The amendment to §501.76 removes a parenthetical to correctly reflect the intent of the sentence.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

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

Filed with the Office of the Secretary of State on May 14, 2020.

TRD-202001920

J. Randel (Jerry) Hill

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Texas State Board of Public Accountancy

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For further information, please call: (512) 305-7842



## 22 TAC §501.77

The Texas State Board of Public Accountancy adopts an amendment to §501.77, concerning Acting through Others, without changes to the proposed text as published in the March 27, 2020, issue of the *Texas Register* (45 TexReg 2141). The rule will not be republished.

The amendment to §501.77 makes a grammatical change to the rule.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

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

Filed with the Office of the Secretary of State on May 14, 2020.

TRD-202001921

J. Randel (Jerry) Hill

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Texas State Board of Public Accountancy

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Proposal publication date: March 27, 2020

For further information, please call: (512) 305-7842



## 22 TAC §501.78

The Texas State Board of Public Accountancy adopts an amendment to §501.78, concerning Withdrawal or Resignation, without changes to the proposed text as published in the March 27, 2020, issue of the *Texas Register* (45 TexReg 2141). The rule will not be republished.

The amendment to §501.78 requires the withdrawal from an engagement or resignation from an employment to be in writing and updates a rule citation resulting from a prior rule revision.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

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

Filed with the Office of the Secretary of State on May 14, 2020.

TRD-202001922

J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

Effective date: June 3, 2020

Proposal publication date: March 27, 2020

For further information, please call: (512) 305-7842



## SUBCHAPTER D. RESPONSIBILITIES TO THE PUBLIC

### 22 TAC §501.80

The Texas State Board of Public Accountancy adopts an amendment to §501.80, concerning Practice of Public Accountancy, without changes to the proposed text as published in the March 27, 2020, issue of the *Texas Register* (45 TexReg 2142). The rule will not be republished.

The amendment to §501.80 references relevant sections of the Texas Public Accountancy Act to the rule.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

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

Filed with the Office of the Secretary of State on May 14, 2020.

TRD-202001923

J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

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Proposal publication date: March 27, 2020

For further information, please call: (512) 305-7842



### 22 TAC §501.81

The Texas State Board of Public Accountancy adopts an amendment to §501.81, concerning Firm License Requirements, without changes to the proposed text as published in the March 27, 2020, issue of the *Texas Register* (45 TexReg 2144). The rule will not be republished.

The amendment to §501.81 reflects a revision to the Public Accountancy Act to eliminate the requirement of firm licensure in Texas by licensed out of state firms providing attest services so long as the out of state firm does not establish a physical office in Texas.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

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

Filed with the Office of the Secretary of State on May 14, 2020.

TRD-202001924

J. Randel (Jerry) Hill

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Texas State Board of Public Accountancy

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Proposal publication date: March 27, 2020

For further information, please call: (512) 305-7842



## 22 TAC §501.82

The Texas State Board of Public Accountancy adopts an amendment to §501.82, concerning Advertising, without changes to the proposed text as published in the March 27, 2020, issue of the *Texas Register* (45 TexReg 2145). The rule will not be republished.

The amendment to §501.82 clarifies the definition of coercion to include not only force but the threat of force.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

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

Filed with the Office of the Secretary of State on May 14, 2020.

TRD-202001925

J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

Effective date: June 3, 2020

Proposal publication date: March 27, 2020

For further information, please call: (512) 305-7842



## 22 TAC §501.83

The Texas State Board of Public Accountancy adopts an amendment to §501.83, concerning Firm Names, without changes to the proposed text as published in the March 27, 2020, issue of the *Texas Register* (45 TexReg 2146). The rule will not be republished.

The amendment to §501.83 helps to clarify that the rule pertains to licensees.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

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

Filed with the Office of the Secretary of State on May 14, 2020.

TRD-202001926

J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

Effective date: June 3, 2020

Proposal publication date: March 27, 2020

For further information, please call: (512) 305-7842



## 22 TAC §501.85

The Texas State Board of Public Accountancy adopts an amendment to §501.85, concerning Complaint Notice, without changes to the proposed text as published in the March 27, 2020, issue of the *Texas Register* (45 TexReg 2148). The rule will not be republished.

The amendment to §501.85 eliminates the agency's physical address for receipt of complaints against licensees in favor of the agency's electronic address.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

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

Filed with the Office of the Secretary of State on May 14, 2020.

TRD-202001927

J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

Effective date: June 3, 2020

Proposal publication date: March 27, 2020

For further information, please call: (512) 305-7842



## SUBCHAPTER E. RESPONSIBILITIES TO THE BOARD/PROFESSION



## 22 TAC §501.90

The Texas State Board of Public Accountancy adopts an amendment to §501.90, concerning Discreditable Acts, without changes to the proposed text as published in the March 27, 2020, issue of the *Texas Register* (45 TexReg 2149). The rule will not be republished.

The amendment to §501.90 redrafts what constitutes a discreditable act to more accurately reflect the language of the Public Accountancy Act and corrects typographical errors in the titles of board rule §519.7 and §525.1.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

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

Filed with the Office of the Secretary of State on May 14, 2020.

TRD-202001928

J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

Effective date: June 3, 2020

Proposal publication date: March 27, 2020

For further information, please call: (512) 305-7842



## TITLE 28. INSURANCE

### PART 1. TEXAS DEPARTMENT OF INSURANCE

#### CHAPTER 5. PROPERTY AND CASUALTY INSURANCE

##### SUBCHAPTER M. FILING REQUIREMENTS DIVISION 6. FILINGS MADE EASY - REQUIREMENTS FOR RATE AND RULE FILINGS

### 28 TAC §5.9332

The Commissioner of Insurance adopts amended 28 TAC §5.9332, relating to workers' compensation classification relativities. The amendments are adopted without changes to the proposed text published in the February 21, 2020, issue of the *Texas Register* (45 TexReg 1167). The rule will not be republished.

REASONED JUSTIFICATION. Section 5.9332(7)(B) provides a list of rate change information that must be included in workers' compensation filings using classification relativities established under Insurance Code §2053.051. Amending §5.9332 to delete (7)(B) makes the section consistent with the amendments to Insurance Code §2053.051 made under Senate Bill 1336, 86th

Legislature, Regular Session (2019). SB 1336 eliminated the requirement that the department develop workers' compensation classification relativities. The change to Insurance Code §2053.051 becomes effective on July 1, 2020; therefore, this rule amendment is adopted to be effective July 1, 2020.

The adopted amendments delete paragraph (7)(B) and all the subparts of it, and existing paragraph (7)(C) is redesignated as new paragraph (7)(B). Also, paragraph (3)(A)(viii) is amended to insert a comma following the word "licenses," for consistency with the department's style for punctuation.

#### SUMMARY OF COMMENTS AND AGENCY RESPONSE.

Commenters: The department received one written comment in support of the proposal from the Office of Injured Employee Counsel.

Comment on §5.9332. The commenter supports the proposed rule changes as necessary to implement SB 1336.

Agency Response to Comment on §5.9332. The department appreciates the supportive comment.

STATUTORY AUTHORITY. The Commissioner adopts the amendments to §5.9332 under Insurance Code §2053.051 as amended by SB 1336 and Insurance Code §36.001.

SB 1336 amended Insurance Code §2053.051 to eliminate the statutory requirement for the department to develop workers' compensation classification relativities.

Insurance Code §36.001 provides that the Commissioner may adopt any rules necessary and appropriate to implement the powers and duties of the department under the Insurance Code and other laws of this state.

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

Filed with the Office of the Secretary of State on May 12, 2020.

TRD-202001881

James Person

General Counsel

Texas Department of Insurance

Effective date: June 1, 2020

Proposal publication date: February 21, 2020

For further information, please call: (512) 676-6584



## TITLE 34. PUBLIC FINANCE

### PART 1. COMPTROLLER OF PUBLIC ACCOUNTS

#### CHAPTER 3. TAX ADMINISTRATION

##### SUBCHAPTER W. AMUSEMENT MACHINE REGULATION AND TAX

### 34 TAC §3.602

The Comptroller of Public Accounts adopts amendments to §3.602, concerning licenses and certificates, renewals and due dates, occupation tax permits and exemptions, with changes to the proposed text as published in the November 19, 2019, issue of the *Texas Register* (44 TexReg 7137). The amendments

define terms used in the section, add information concerning license and registration holder's fees, and provide details relating to displaying occupational tax permits.

For consistency with the wording in Occupations Code, Chapter 2153 (Coin-Operated Machines), the comptroller replaces the term "operate" with the phrase "exhibit or display" throughout the section in reference to the activities for which a license is required.

The comptroller amends subsection (a) to add definitions. In paragraph (1), the comptroller defines the term "coin-operated amusement machine." The definition incorporates information from §3.601(a)(4) and (5) of this title, concerning Definitions, Changes in Ownership, Gross Receipts Regulations, and Record Keeping Requirements. §3.601 defines both "machine or amusement machine," which is a machine that vends or dispenses music or is operated for skill or pleasure, and "machines designed exclusively for children," which are machines that can only be used by a child under 12 years of age. The proposed definition is also consistent with the definitions of the terms "coin-operated machine," "music coin-operated machine," and "skill or pleasure coin-operated machine" in Occupations Code, §2153.002(1), (4), and (9) (Definitions). Throughout the section, the comptroller replaces the terms "amusement machine" and "coin-operated machine" with the defined term "coin-operated amusement machine."

The definitions for the different types of license holders (general business, import, and repair) in paragraphs (2), (3), and (6) come from Occupations Code, §2153.152 (Types of Licenses).

In paragraph (4), the comptroller gives the term "person" a meaning consistent with the definition of the term in Occupations Code, §2153.002(7). Because the definition of "person" in the Occupations Code begins with "includes," a term of enlargement, the comptroller adds the phrase "or other organization or legal entity," consistent with Business Organizations Code §1.002(69-b) (Definitions).

In paragraph (5), the comptroller gives "registration certificate holder" the meaning assigned in Occupations Code, §2153.156 (Registration Certificate Required).

In paragraph (7), the comptroller defines the term "tax permit" using the definition assigned to "permit" in §3.601 of this title. The comptroller uses the term "tax permit" in this section to be consistent with Occupations Code, §2153.406 (Tax Permit). The comptroller reletters subsequent subsections.

The comptroller amends relettered subsection (b)(1) to identify the annual fees for each type of license and for registration certificates. These fees are statutory. See Occupations Code, §2153.154 (License Fee). The comptroller removes the word "quarterly" from the statement that fees cannot be prorated quarterly because annual fees may not be prorated at all under the statute. Compare Occupations Code, §2153.154, providing for an annual license fee and stating that the comptroller may not refund any part of a license fee after a license is issued, with Occupations Code, §2153.403 (Prorated Tax), which provides that the occupation tax on a coin-operated machine may be prorated quarterly.

The comptroller amends relettered subsection (b)(2), concerning the age requirement, to add a reference to registration certificates, as well as licenses. The comptroller replaces the phrase "natural person" with "individual" for consistency with other parts of the section and with Occupations Code, Chapter 2153. The

subsection is also revised to make clear that the comptroller will not issue a license or registration certificate to a minor under 18 years of age.

The comptroller amends relettered subsection (b)(5), concerning the occasional sales exemption for a registration certificate holder, to make the section read more easily. A registration certificate holder is not required to obtain a general business license or import license if the certificate holder is not in the business of selling machines and falls under the occasional sales exemption. The comptroller revises the occasional sales exemption language from the proposed section to specifically state a registration certificate holder may make two sales of machines instead of selling two machines as stated in the proposed amendments. This will eliminate an inadvertent conflict with the last sentence of the subsection.

The comptroller amends relettered subsection (c), concerning annual general business, import, and repair license renewals and annual occupation tax, to delete the phrase "and annual occupation tax." The occupation tax is addressed in relettered subsection (e). In addition, the comptroller adds additional information from Occupations Code, Chapter 2153 not currently contained in this subsection. New paragraph (3) explains that annual license fees cannot be prorated and must be submitted with an application. Occupations Code, §2153.153 (License Application Requirements). New paragraph (4) incorporates details for late-filed license renewal applications for unexpired licenses. See Occupations Code, §2153.162(a) (License and Registration Renewal). The comptroller adds paragraph (5) to incorporate details for late-filed license renewal applications for expired licenses pursuant to Occupations Code, §2153.162(b), (c). In paragraph (5), the comptroller also memorializes current agency practice requiring a person who has operated under an expired license for two or more years to pay all past due fees prior to applying for a new license.

The comptroller also amends relettered subsection (d), concerning annual registration certificate renewals and annual occupation tax, to delete the phrase "and annual occupation tax." The occupation tax is addressed in relettered subsection (e). In addition, the comptroller adds information from Occupations Code, Chapter 2153 not currently contained in this subsection. The comptroller amends paragraph (3) to remove the term "quarterly" and remove references to license fees because that information has been added in subsection (c)(3). The comptroller adds paragraphs (4) and (5) to incorporate details for late-filed applications for registration certificate renewals and memorialize current agency practice. See Occupations Code, §2153.162.

The comptroller amends relettered subsection (e), concerning occupation tax permits, to make the information easier to read. The comptroller revises subsection (e)(1) to explain when the occupation tax is due and to add that an owner pays the occupation tax by purchasing a tax permit. See Occupations Code, §§2153.401 (Imposition of Tax), 2153.404 (Collection), and 2153.406.

The comptroller amends subsection (e)(2) to remove the attached graphic with the rate schedule and incorporate the information directly into the section as new subparagraphs (A) through (D). Because there is no longer an attached rate schedule, the comptroller changes the heading of the paragraph to "tax rate."

The comptroller amends subsection (e)(3) to emphasize that the duplicate tax permits may only replace valid tax permits that are

lost, stolen, or destroyed. The comptroller does not issue duplicate tax permits to replace invalid tax permits. The comptroller also revises the heading of the paragraph use the lower case, for consistency with the rest of the subsection.

The comptroller makes no substantive revisions to subsection (e)(4).

The comptroller amends subsection (e)(5) to explain how occupational tax permits must be affixed to the coin-operated amusement machine in order for the tax permits to be valid.

The comptroller adds new subsection (e)(6) explaining when a tax permit is invalid and the consequences of a not displaying a valid tax permit. Paragraph (6)(A) explains that a new tax permit affixed on top of an old tax permit is invalid because it is not affixed to a permanent surface of the machine. Similarly, a new tax permit affixed on any removable portion of the machine is invalid. Paragraph (6)(B) states that an invalid tax permit may only be replaced with a new tax permit. Paragraph (6)(C) is based upon Occupations Code, §2153.354 (Civil Penalty) and addresses the penalties for exhibiting or displaying a coin-operated amusement machine without a valid tax permit. Subsequent paragraphs are renumbered.

The comptroller amends renumbered paragraph (7), to use the term "owner" instead of "taxpayer." See Occupations Code, §2153.406.

The comptroller reorganizes the section to add new subsection (f), concerning exemptions, and reletters current subsections (d)(7) and (8) as subsections (f)(1) and (2). The comptroller adds paragraph (3) to address private ownership of machines. See Occupations Code, §2153.006 (Private Ownership Exempt).

No comments were received regarding adoption of the amendment.

This amendment is adopted under Occupations Code, §2153.052 (Rulemaking Authority) and Tax Code, §111.002 (Comptroller's Rules; Compliance; Forfeiture), which provide the comptroller with the authority to prescribe, adopt, and enforce procedural and due process rules relating to the administration and enforcement of the provisions of Occupations Code, Chapter 2153 (Coin-Operated Machines).

The amendment implements Occupations Code, §2153.051 (General Duties of Comptroller) and all other statutory provisions identified in the preamble that are cited in relation to specific proposed amendments.

*§3.602. Licenses and Certificates, Renewals and Due Dates, Occupation Tax Permits and Exemptions.*

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

(1) Coin-operated amusement machine--Any kind of machine or device operated by or with a coin or other United States currency, metal slug, token, electronic card, or check, that vends or dispenses music or is operated for skill or pleasure. The term does not include an amusement machine designed exclusively for children under 12 years of age.

(2) General business license holder--A person who may engage in the business of manufacturing, owning, buying, selling, renting, leasing, trading, maintaining, transporting, or exhibiting in Texas, or storing a coin-operated amusement machine.

(3) Import license holder--A person who may engage in the business of importing, transporting, owning, buying, repairing, selling, or delivering a coin-operated amusement machine for sale or delivery in this state.

(4) Person--An individual, association, trustee, receiver, partnership, corporation, or other organization or legal entity, or a manager, agent, servant, or employee of an individual, association, trustee, receiver, partnership, corporation, or other organization or legal entity.

(5) Registration certificate holder--A person who is exempt from the licensing and recordkeeping requirements in Occupations Code, Chapter 2153 (Coin-Operated Machines) but who may not exhibit a coin-operated amusement machine unless the machine is registered annually with the comptroller.

(6) Repair license holder--A person who may engage in the business of maintaining, transporting, or storing a coin-operated amusement machine.

(7) Tax permit--The decal issued by the comptroller to an owner of a coin-operated amusement machine evidencing the payment of the occupation tax.

(b) Licenses and registration certificates.

(1) Annual general business, import, and/or repair license fees, and registration certificate fees. Annual license and registration certificate fees for a general business license holder, import license holder, repair license holder, and a registration certificate holder are payable in advance and cannot be prorated. The annual fees are as follows:

(A) for a general business license applicant with 50 or fewer machines, the fee is \$200;

(B) for a general business license applicant with 51 to 200 machines, the fee is \$400;

(C) for a general business license applicant with over 200 machines, the fee is \$500;

(D) for an import license applicant, the fee is \$500;

(E) for a repair license applicant, the fee is \$50; and

(F) for a registration certificate applicant, the fee is \$150.

(2) Age requirement for issuance of a license or registration certificate. No individual shall be issued a license or registration certificate by the comptroller for the operation of coin-operated amusement machines unless at the time the license or certificate is issued the applicant is 18 years of age or older.

(3) Information requirement for issuance of a license or registration certificate. An applicant for a license or registration certificate must provide all information required on the comptroller's application before a license or registration certificate will be issued or renewed.

(4) General business license and registration certificate notification requirement. A general business license holder must notify the comptroller in writing within 10 days of any change in ownership of a coin-operated amusement machine. A registration certificate holder must notify the comptroller in writing of any change in ownership of a coin-operated amusement machine and each time the location of a machine is changed within 10 days of the change.

(5) Occasional sale exemption for registration certificate holder. A registration certificate holder may make two sales of coin-op-

erated amusement machines during any 12-month period without being required to obtain a general business or import license, if the certificate holder does not hold out as engaging (or does not habitually engage) in the business of selling coin-operated amusement machines. Before the third sale of a coin-operated amusement machine in a 12-month period by a registration certificate holder not previously in the business of selling, leasing, or renting coin-operated amusement machines, a general business or import license must be obtained. The transfer of title or possession of more than one machine in a single transaction will constitute one sale.

(c) Annual general business, import, and repair license renewals.

(1) License renewal applications are due November 30. License renewal applications will not be considered complete for processing unless the tax due and the license fee are remitted. Complete license renewal applications filed after the due date may result in the renewal license being issued after December 31, the expiration date of the existing license. In such a case a person may not operate coin-operated amusement machines after the expiration date until the renewal license is issued. A person who operates coin-operated amusement machines without a license or with an expired license is guilty of a Class A misdemeanor.

(2) An applicant who properly completes the license renewal application and remits all fees and taxes with it by the due date may continue to exhibit or display coin-operated amusement machines after the expiration date if the applicant's license renewal has not been issued unless the applicant is notified by the comptroller prior to the license expiration date of a problem with the license renewal.

(3) The annual license fee must be submitted with a license renewal application. License fees may not be prorated.

(4) Late-filed application for license renewal. If an application for renewal of an unexpired license is postmarked December 1 - December 31, the applicant must remit a late fee of \$50 in addition to the annual license fee listed in subsection (b)(1) of this section.

(5) Application for renewal of an expired license.

(A) A license holder may renew an expired license if it has not been expired for more than 90 days by paying to the comptroller a fee that is 1-1/2 times the amount of the annual license fee listed in subsection (b)(1) of this section.

(B) A license holder may renew an expired license if it has been expired for more than 90 days but less than two years by paying to the comptroller a fee that is two times the amount of the annual license fee listed in subsection (b)(1) of this section.

(C) A person whose license has been expired for two years or more may not renew their license and must comply with the requirements and procedures for obtaining a new license under subsection (b) of this section. In addition to other penalties allowed by law, each person whose license has been expired for two years or more and who has been engaged in business as a general business license holder, import license holder, or repair license holder must remit to the comptroller an amount equal to two times the amount of the annual license fee listed in subsection (b)(1) of this section for each year that the person engaged in business with an expired license.

(d) Annual registration certificate renewals.

(1) Registration certificate renewal applications are due November 30. Registration certificate renewal applications will not be processed unless the tax due and the registration fee are remitted. Registration certificate renewal applications filed after the due date may result in the renewal registration certificate being issued after

December 31, the expiration date of the existing registration certificate. In such a case, a person may not exhibit or display coin-operated amusement machines after the expiration date until the renewal certificate is issued. A person who exhibits or displays coin-operated amusement machines without a registration certificate or with an expired registration certificate is guilty of a Class A misdemeanor.

(2) An applicant who properly completes the registration certificate renewal application and remits all fees and taxes with it by the due date may continue to exhibit or display coin-operated amusement machines after the expiration date even if the registration certificate renewal has not been issued, unless the applicant is notified by the comptroller prior to the registration certificate expiration date of a problem with the registration certificate renewal.

(3) Registration certificate fees may not be prorated and the registration fee must be submitted with the registration certificate renewal application.

(4) Late-filed application for registration certificate renewal. If an application for renewal of an unexpired registration certificate is postmarked December 1 - December 31, the applicant must remit a late fee of \$50 in addition to the annual registration certificate fee listed in subsection (b)(1) of this section.

(5) Application for renewal of an expired registration certificate.

(A) A registration certificate holder may renew an expired registration if it has not been expired for more than 90 days by paying to the comptroller a fee that is 1-1/2 times the amount of the annual registration fee listed in subsection (b)(1)(F) of this section.

(B) A registration certificate holder may renew an expired registration if it has been expired for more than 90 days but less than two years by paying to the comptroller a fee that is two times the amount of the annual registration fee listed in subsection (b)(1)(F) of this section.

(C) A person whose registration has been expired for two years or more may not renew their registration and must comply with the requirements and procedures for obtaining a new registration certificate under subsection (b) of this section. In addition to other penalties allowed by law, each person whose registration has been expired for two years or more and who has been engaged in business as a registration certificate holder must remit to the comptroller an amount equal to two times the amount of the annual registration fee listed in subsection (b)(1) of this section for each year that the person engaged in business with an expired registration.

(e) Occupation tax permits.

(1) Occupation tax. Each coin-operated amusement machine that an owner exhibits, displays, or permits to be exhibited or displayed in this state is subject to an annual occupation tax. With the exception of annual renewals, the occupation tax is due at the time the owner exhibits or displays the machine, or permits the machine to be exhibited or displayed, in this state. The occupation tax for annual renewals for each machine exhibited or displayed or permitted to be exhibited or displayed in this state is due November 30 of each year. The purchase of a tax permit is payment of the occupation tax.

(2) Tax rate. The tax rate is \$60 per year. When a coin-operated amusement machine is first exhibited or displayed or permitted to be exhibited or displayed in this state, the occupation tax for the calendar year is prorated as follows:

(A) for a tax permit issued January 1 to March 31, the amount of tax is \$60;

(B) for a tax permit issued April 1 to June 30, the amount of tax is \$45;

(C) for a tax permit issued July 1 to September 30, the amount of tax is \$30; and

(D) for a tax permit issued October 1 to December 31, the amount of tax is \$15.

(3) Replacement of lost, stolen, or destroyed valid occupation tax permits. The comptroller shall provide a duplicate tax permit if a valid tax permit has been lost, stolen, or destroyed. The fee for each duplicate tax permit is \$5.00. If a valid tax permit is lost, stolen, or destroyed, a written statement must be submitted explaining the circumstances by which the tax permit was lost, stolen, or destroyed, and must include the number of the lost, stolen, or destroyed tax permit before a replacement tax permit can be issued. A tax permit for which a duplicate permit has been issued is void.

(4) Assignment of tax permits. Each coin-operated amusement machine exhibited or displayed in Texas for music, skill, or pleasure shall be registered with the comptroller by make, model, and serial number. A tax permit issued by the comptroller shall be affixed to each registered machine. Each coin-operated amusement machine shall have a serial number, and the name and telephone number of the owner of each machine must be clearly visible on the outside surface of the machine. If a coin-operated machine is not manufactured with a serial number, a license holder or registration certificate holder shall assign a serial number to the machine and either stamp or engrave the assigned number on the machine cabinet. If all these requirements have been met, a tax permit may be assigned to a purchaser by submitting written notice, as described in subsection (b)(4) of this section, to the comptroller within 10 days of the transfer of title or possession of a coin-operated amusement machine.

(5) Attachment of tax permits. Tax permits shall be conspicuously affixed to any permanent surface of the coin-operated amusement machine to make the tax permit visible for inspection without movement of the machine. Tax permits shall be securely and completely affixed to the coin-operated amusement machine so they cannot be removed without continued application of steam and water. Tax permits shall be completely affixed to a permanent surface of the coin-operated amusement machine by use of the adhesive exposed on the back of the tax permit following complete removal of the protective backing. It is unlawful to enclose any tax permit in a plastic cover, or on a removable cover made of plastic, metal, or any other material, or to in any way affix the tax permit in a less than permanent manner so the tax permit can be removed or moved from one machine to another without the destruction of the tax permit resulting as a consequence of such removal. Tax permits shall not be affixed by the use of tape. Tax permits are not transferrable from one person to another or from one machine to another, and cannot be affixed to a machine that has not been registered with the comptroller.

(6) Invalid tax permits.

(A) Any tax permit not properly displayed as described in paragraph (5) of this subsection is invalid. Any tax permit not affixed to a permanent surface of a coin-operated amusement machine as described in paragraph (5) of this subsection by use of the adhesive backing on the permit is invalid. Any tax permit removed from a coin-operated amusement machine is invalid.

(B) The comptroller will not issue a duplicate tax permit to replace a tax permit that is invalid. A new tax permit must be purchased to replace an invalid tax permit.

(C) The comptroller may assess a penalty of not less than \$50 or more than \$2,000 against an owner who permits a coin-

operated amusement machine under the owner's control to be operated, exhibited, or displayed in this state without a valid tax permit or against a person who exhibits or displays a coin-operated amusement machine in this state without a valid tax permit. The comptroller may assess a penalty for each day a violation occurs.

(7) Issuance of extra tax permits. The comptroller will issue tax permits only for coin-operated amusement machines that are exhibited or displayed on location. The owner shall not stockpile permits or attach tax permits to unregistered machines.

(f) Exemptions.

(1) Establishing an exemption. In order to establish that an organization is exempt from the license requirements pursuant to Occupations Code, §2153.005 (Exempt Corporations and Associations), the organization must do the following:

(A) submit a written statement to the comptroller explaining in detail the nature of the activities conducted or to be conducted, a copy of the articles of incorporation if the organization is a corporation, a copy of the bylaws, a copy of any applicable trust agreement or a copy of its constitution, and a copy of any letter granting exemption from the Internal Revenue Service; and

(B) furnish any additional information requested by the comptroller including, but not limited to, documentation showing all services performed by the organization and all income, assets, and liabilities of the organization.

(2) Written notice. After a review of the material, the comptroller will inform the organization in writing if it qualifies for an exemption.

(3) Private ownership exemption. An individual who owns a coin-operated amusement machine for personal use in the individual's private residence is not required to obtain a license or pay a tax under this section.

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

Filed with the Office of the Secretary of State on May 15, 2020.

TRD-202001936

William Hamner

Special Counsel for Tax Administration

Comptroller of Public Accounts

Effective date: June 4, 2020

Proposal publication date: November 22, 2019

For further information, please call: (512) 475-0387



### 34 TAC §3.603

The Comptroller of Public Accounts adopts amendments to §3.603, concerning denials; suspensions; revocations; violations; hearings, without changes to the proposed text as published in the November 22, 2019, issue of the *Texas Register* (44 TexReg 7141). The amendments provide additional guidance about the process for a license or permit suspension or revocation, or penalty imposition, consistent with applicable laws and current agency practice. This rule will not be republished.

Throughout the section, the comptroller replaces the term "licensee" with "license holder" and the phrase "owner of the regis-

tration certificate" with the phrase "registration certificate holder" for consistency with Occupations Code, §2153.301 (Definition).

The comptroller adds new subsection (a) to add reference to the terms defined in §3.602 of this title, concerning Licenses and Certificates, Renewals and Due Dates, Occupation Tax Permits and Exemptions. The comptroller reletters subsequent subsections.

The comptroller amends relettered subsection (b) to add a reference to the Occupations Code and to provide 20 calendar days' notice to request a hearing, which is consistent with Occupations Code, §2153.306 (Determination Hearing), rather than the current 15 days. The comptroller adds a statement that the notice issued to an applicant, license holder, or registration certificate holder will include the proposed final action of the comptroller. This language was located subsection (d).

The comptroller deletes existing subsection (b) because the material addressed in the existing subsection is addressed in new subsection (d).

The comptroller revises the punctuation of subsection (c) to make the subsection easier to read. The comptroller further amends the subsection for clarity. No substantive changes are intended as a result of these amendments.

The comptroller adds new subsection (d) to incorporate information formerly found in subsection (b) concerning the burden of proof for the applicant, license holder, or registration certificate holder. In the new subsection, the comptroller updates the reference to the Rules of Practice and Procedure, effective January 1, 2019, and revises the description of the "burden of proof" using the terminology of the Rules of Practice and Procedure. See §1.26 of this title, concerning Burden and Standard of Proof in Contested Cases.

The comptroller deletes current subsection (d) because the information is now located in relettered subsection (b).

The comptroller amends subsection (e) to update the number of days in which a hearing may be requested from 15 days to 20 calendar days in accordance with Occupations Code, §2153.306.

The comptroller amends subsection (f) for clarity. No substantive change is intended as a result of these amendments.

The comptroller deletes subsection (g), concerning the requirement to provide a court reporter. All hearings pursuant to this section will be conducted by the State Office of Administrative Hearings.

No comments were received regarding adoption of the amendment.

This amendment is adopted under Occupations Code, §2153.052 (Rulemaking Authority) and Tax Code, §111.002 (Comptroller's Rules; Compliance; Forfeiture), which provide the comptroller with the authority to prescribe, adopt, and enforce procedural and due process rules relating to the administration and enforcement of the provisions of Occupations Code, Chapter 2153 (Coin-Operated Machines).

The amendments implement Government Code, Chapter 2001 (Administrative Procedures Act); Occupations Code, Chapter 2153 (Coin-Operated Machines); and the relevant portions of §§1.1-1.35 of this title (relating to Rules of Practice and Procedure).

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

Filed with the Office of the Secretary of State on May 15, 2020.

TRD-202001937

William Hamner

Special Counsel for Tax Administration

Comptroller of Public Accounts

Effective date: June 4, 2020

Proposal publication date: November 22, 2019

For further information, please call: (512) 475-0387



## CHAPTER 4. TREASURY ADMINISTRATION

### SUBCHAPTER A. POOLED COLLATERAL PROGRAM

#### 34 TAC §4.120

The Comptroller of Public Accounts adopts amendments to §4.120, concerning assessment, without changes to the proposed text as published in the April 10, 2020, issue of the *Texas Register* (45 TexReg 2404). The rule will not be republished.

The amendments to subsection (a) and relettered subsection (c) clarify that the comptroller may, in its discretion, choose not to impose an annual assessment against participating depository institutions if there are no extra costs associated with administering the pooled collateral program. The amendments delete subsection (c) as unnecessary.

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

The amendment is adopted under Government Code, §2257.102, which provides the comptroller with the authority to establish by rule a program for centralized pooled collateralization of deposits of public funds and for monitoring collateral maintained by participating institutions.

The amendment implements Government Code, §2257.106, concerning annual assessment.

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

Filed with the Office of the Secretary of State on May 18, 2020.

TRD-202001962

Victoria North

General Counsel for Fiscal and Agency Affairs

Comptroller of Public Accounts

Effective date: June 7, 2020

Proposal publication date: April 10, 2020

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



## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### PART 15. TEXAS VETERANS COMMISSION

## CHAPTER 452. ADMINISTRATION GENERAL PROVISIONS

### 40 TAC §452.2

The Texas Veterans Commission (commission) adopts the amendment to §452.2 of Title 40, Part 15, Chapter 452 of the Texas Administrative Code concerning Advisory Committees, without changes to the proposed text as published in the February 28, 2020, issue of the *Texas Register* (45 TexReg 1383). The rule will not be republished.

The amended rule is adopted to eliminate, pursuant to commission vote, two existing advisory committees: (1) "The Veterans Employment and Training Advisory Committee" and (2) "The Veterans Communication Advisory Committee," and to add an additional committee addressing veterans' needs, named "The Veterans Services Advisory Committee."

No comments were received regarding the proposed rule amendment.

The amended rule is adopted under Texas Government Code §434.010, granting the commission the authority to establish

rules, and Texas Government Code §434.0101, granting the commission the authority to establish rules governing the agency's advisory committees.

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

Filed with the Office of the Secretary of State on May 18, 2020.

TRD-202001963

Madeleine Connor

General Counsel

Texas Veterans Commission

Effective date: June 7, 2020

Proposal publication date: February 28, 2020

For further information, please call: (512) 463-3605

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# REVIEW OF AGENCY RULES

This section contains notices of state agency rule review as directed by the Texas Government Code, §2001.039.

Included here are proposed rule review notices, which

invite public comment to specified rules under review; and adopted rule review notices, which summarize public comment received as part of the review. The complete text of an agency's rule being reviewed is available in the *Texas Administrative Code* on the Texas Secretary of State's website.

For questions about the content and subject matter of rules, please contact the state agency that is reviewing the rules. Questions about the website and printed copies of these notices may be directed to the *Texas Register* office.

## Proposed Rule Reviews

Office of Consumer Credit Commissioner

### Title 7, Part 5

The Finance Commission of Texas (commission) files this notice of intention to review and consider for readoption, revision, or repeal, Texas Administrative Code, Title 7, Part 5, Chapter 82, concerning Administration.

This rule review will be conducted pursuant to Texas Government Code, §2001.039. The commission will accept written comments received on or before 5:00 p.m. central time on the 31st day after the date this notice is published in the *Texas Register* as to whether the reasons for adopting these rules continue to exist.

The Office of Consumer Credit Commissioner, which administers these rules, believes that the reasons for adopting the rules contained in this chapter continue to exist. Any questions or written comments pertaining to this notice of intention to review should be directed to Matthew Nance, Deputy General Counsel, Office of Consumer Credit Commissioner, 2601 North Lamar Boulevard, Austin, Texas 78705, or by email to [rule.comments@occc.texas.gov](mailto:rule.comments@occc.texas.gov). Any proposed changes to the rules as a result of the review will be published in the Proposed Rules Section of the *Texas Register* and will be open for an additional 31-day public comment period prior to final adoption or repeal by the commission.

TRD-202001991

Matthew Nance

Deputy General Counsel

Office of Consumer Credit Commissioner

Filed: May 20, 2020



The Finance Commission of Texas (commission) files this notice of intention to review and consider for readoption, revision, or repeal, Texas Administrative Code, Title 7, Part 5, Chapter 87, concerning Tax Refund Anticipation Loans. Chapter 87 includes Subchapter A, concerning Registration Procedures, and Subchapter B, concerning Dis-closures.

This rule review will be conducted pursuant to Texas Government Code, §2001.039. The commission will accept written comments received on or before 5:00 p.m. central time on the 31st day after the date this notice is published in the *Texas Register* as to whether the reasons for adopting these rules continue to exist.

The Office of Consumer Credit Commissioner, which administers these rules, believes that the reasons for adopting the rules contained in this chapter continue to exist. Any questions or written comments pertaining to this notice of intention to review should be directed to Audrey

Spalding, Assistant General Counsel, Office of Consumer Credit Commissioner, 2601 North Lamar Boulevard, Austin, Texas 78705, or by email to [rule.comments@occc.texas.gov](mailto:rule.comments@occc.texas.gov). Any proposed changes to the rules as a result of the review will be published in the Proposed Rules Section of the *Texas Register* and will be open for an additional 31-day public comment period prior to final adoption or repeal by the commission.

TRD-202001992

Matthew Nance

Deputy General Counsel

Office of Consumer Credit Commissioner

Filed: May 20, 2020



## Adopted Rule Reviews

Office of the Attorney General

### Title 1, Part 3

The Office of the Attorney General (OAG) adopts the review of 1 TAC Chapter 63, Public Information. The proposed notice of intent to review rules was published in the March 6, 2020, issue of the *Texas Register* (45 TexReg 1721).

No comments were received on the proposed rule review.

The OAG has assessed whether the reasons for adopting the rules continue to exist. As a result of the review, the OAG finds the reasons for adopting the rules continue to exist and readopts those sections in accordance with the requirements of Texas Government Code §2001.039.

Elsewhere in this issue of the *Texas Register*, the OAG is contemporaneously adopting an amendment to Chapter 63, Subchapter A, §63.1.

TRD-202001947

Lesley French

General Counsel

Office of the Attorney General

Filed: May 15, 2020



Texas Education Agency

### Title 19, Part 2

Texas Education Agency (TEA) adopts the review of 19 TAC Chapter 76, Extracurricular Activities, Subchapter AA, Commissioner's Rules, pursuant to the Texas Government Code, §2001.039. TEA proposed the review of 19 TAC Chapter 76, Subchapter AA, in the February 15, 2019, issue of the *Texas Register* (44 TexReg 717).

Relating to the review of 19 TAC Chapter 76, Subchapter AA, TEA finds that the reasons for adopting §76.1001 continue to exist and readopts the rule. TEA finds that the reasons do not continue to exist for §76.1003, Extracurricular Athletic Activity Safety Training Requirements. Senate Bill 1376, 86th Texas Legislature, 2019, amended TEC, §33.202, to transfer authority for the rule from the commissioner of education to the University Interscholastic League. At a later date, TEA plans to repeal §76.1003. TEA received no comments related to the review of Subchapter AA.

This concludes the review of 19 TAC Chapter 76.

TRD-202001978  
Cristina De La Fuente-Valadez  
Director, Rulemaking  
Texas Education Agency  
Filed: May 19, 2020



Executive Council of Physical Therapy and Occupational  
Therapy Examiners  
**Title 22, Part 28**

The Executive Council of Physical Therapy and Occupational Therapy Examiners (Executive Council) adopts the review of Title 22 Texas Administrative Code Chapter 651, Fees, in accordance with Texas Government Code §2001.039. The notice of intent to review Chapter 651 was published in the March 20, 2020, issue of the *Texas Register* (45 TexReg 2055).

No comments were received on the proposed rule review.

The Executive Council has assessed whether the reasons for adopting the rules in Chapter 651 continue to exist. As a result of the review, the Executive Council finds the reasons for adopting the rules in Chapter 651 continue to exist and readopts those sections in accordance with the requirements of Texas Government Code §2001.039.

TRD-202001945  
Ralph A. Harper  
Executive Director  
Executive Council of Physical Therapy and Occupational Therapy  
Examiners  
Filed: May 15, 2020



# TABLES & GRAPHICS

Graphic images included in rules are published separately in this tables and graphics section. Graphic images are arranged in this section in the following order: Title Number, Part Number, Chapter Number and Section Number.

Graphic images are indicated in the text of the emergency, proposed, and adopted rules by the following tag: the word “Figure” followed by the TAC citation, rule number, and the appropriate subsection, paragraph, subparagraph, and so on.

**Figure: 19 TAC §227.10(a)(4)(C)**

<b>Certificate TAC Reference</b>	<b>Certificate Name</b>	<b>Pre-Admission Content Test</b>	<b>Passing Standard</b>
<b>Art</b>			
§233.10	Art: Early Childhood-Grade 12	778 TX PACT Art: Early Childhood-Grade 12	63 out of 100 selected-response items
<b>Career and Technical Education</b>			
§233.13	Technology Education: Grades 6-12	771 TX PACT: Technology Education: Grades 6-12	40 out of 80 selected-response items
§233.13	Family and Consumer Sciences, Composite: Grades 6-12	721 TX PACT: Family and Consumer Sciences, Composite	51 out of 100 selected-response items
§233.13	Human Development and Family Studies: Grades 8-12	721 TX PACT: Family and Consumer Sciences, Composite	51 out of 100 selected-response items
§233.13	Hospitality, Nutrition, and Food Sciences: Grades 8-12	721 TX PACT: Family and Consumer Sciences, Composite	51 out of 100 selected-response items
§233.13	Agriculture, Food, and Natural Resources: Grades 6-12	772 TX PACT: Agriculture, Food, and Natural Resources: Grades 6-12	52 out of 100 selected-response items
§233.13	Business and Finance: Grades 6-12	776 TX PACT: Business and Finance: Grades 6-12	64 out of 100 selected-response items
<b>Computer Science and Technology Applications</b>			
§233.5	Computer Science: Grades 8-12	741 TX PACT Computer Science: Grades 8-12	52 out of 80 selected-response items
§233.5	Technology Applications: Early Childhood-Grade 12	742 TX PACT Technology Applications: Early Childhood-Grade 12	52 out of 80 selected-response items

Certificate TAC Reference	Certificate Name	Pre-Admission Content Test	Passing Standard
<b>Core Subjects</b>			
<u>§233.2</u>	<u>Early Childhood: Prekindergarten-Grade 3</u>	<u>701 TX PACT: Essential Academic Skills (Subtest I: Reading) and 702 TX PACT: Essential Academic Skills (Subtest II: Writing) and 703 TX PACT: Essential Academic Skills (Subtest III: Mathematics) or</u>	<u>(701) 25 out of 35 selected-response items</u> <u>(702) 20 out of 30 selected-response items</u> <u>(702) 5 out of 8 score points (1 constructed-response item)</u> <u>(703) 23 out of 36 selected-response items</u>
§233.2	Core Subjects: Early Childhood-Grade 6	701 TX PACT: Essential Academic Skills (Subtest I: Reading) and 702 TX PACT: Essential Academic Skills (Subtest II: Writing) and 703 TX PACT: Essential Academic Skills (Subtest III: Mathematics) or  790 TX PACT Core Subjects: Grades 4-8	(701) 25 out of 35 selected-response items (702) 20 out of 30 selected-response items (702) 5 out of 8 score points (1 constructed-response item) (703) 23 out of 36 selected-response items  (790) 94 out of 160 selected-response items
<u>§233.2</u>	<u>Core Subjects with Science of Teaching Reading: Early Childhood-Grade 6</u>	<u>701 TX PACT: Essential Academic Skills (Subtest I: Reading) and 702 TX PACT: Essential Academic Skills (Subtest II: Writing) and 703 TX PACT: Essential Academic Skills (Subtest III: Mathematics) or</u>  <u>790 TX PACT Core Subjects: Grades 4-8</u>	<u>(701) 25 out of 35 selected-response items</u> <u>(702) 20 out of 30 selected-response items</u> <u>(702) 5 out of 8 score points (1 constructed-response item)</u> <u>(703) 23 out of 36 selected-response items</u> <u>(790) 94 out of 160 selected-response items</u>

<b>Certificate TAC Reference</b>	<b>Certificate Name</b>	<b>Pre-Admission Content Test</b>	<b>Passing Standard</b>
§233.2	Core Subjects: Grades 4-8	790 TX PACT Core Subjects: Grades 4-8	94 out of 160 selected-response items
<u>§233.2</u>	<u>Core Subjects with Science of Teaching Reading: Grades 4-8</u>	<u>790 TX PACT Core Subjects: Grades 4-8</u>	<u>94 out of 160 selected-response items</u>
<b>Dance</b>			
§233.10	Dance: Grades 6-12	779 TX PACT Dance: Grades 6-12	53 out of 80 selected-response items
<b>English Language Arts and Reading</b>			
§233.3	English Language Arts and Reading: Grades 4-8	717 TX PACT English Language Arts and Reading: Grades 4-8	71 out of 100 selected-response items
<u>§233.3</u>	<u>English Language Arts and Reading with Science of Teaching Reading: Grades 4-8</u>	<u>717 TX PACT English Language Arts and Reading: Grades 4-8</u>	<u>71 out of 100 selected-response items</u>
§233.3	English Language Arts and Reading: Grades 7-12	731 TX PACT English Language Arts and Reading: Grades 7-12	59 out of 100 selected-response items
§233.3	English Language Arts and Reading/Social Studies: Grades 4-8	717 TX PACT English Language Arts and Reading: Grades 4-8 and 718 TX PACT Social Studies: Grades 4-8	(717) 71 out of 100 selected-response items (718) 57 out of 100 selected-response items
<u>§233.3</u>	<u>English Language Arts and Reading/Social Studies with Science of Teaching Reading: Grades 4-8</u>	<u>717 TX PACT English Language Arts and Reading: Grades 4-8 and 718 TX PACT Social Studies: Grades 4-8</u>	<u>(717) 71 out of 100 selected-response items</u> <u>(718) 57 out of 100 selected-response items</u>

<b>Certificate TAC Reference</b>	<b>Certificate Name</b>	<b>Pre-Admission Content Test</b>	<b>Passing Standard</b>
<b>Health</b>			
§233.11	Health: Early Childhood-Grade 12	757 TX PACT Health: Early Childhood-Grade 12	57 out of 80 selected-response items
<b>Journalism</b>			
§233.3	Journalism: Grades 7-12	756 TX PACT Journalism: Grades 7-12	45 out of 72 selected-response items
<b>Languages Other Than English</b>			
§233.15	American Sign Language: Early Childhood-Grade 12	784 TX PACT American Sign Language: Early Childhood-Grade 12 (Subtest I) and 785 TX PACT: American Sign Language (ASL): Early Childhood-Grade 12 (Subtest II)	(784) 22 out of 40 selected-response items (785) 23 out of 40 selected-response items (785) 19 out of 32 score points (4 constructed-response items)
§233.15	Arabic: Early Childhood-Grade 12	ACTFL 605 OPI – Arabic and 600 WPT – Arabic	ACTFL 605 OPI – Arabic: Advanced Low; 600 WPT – Arabic: Advanced Low
§233.15	Chinese: Early Childhood-Grade 12	714 TX PACT: LOTE Chinese: Early Childhood-Grade-12	58 out of 80 selected-response items 11 out of 16 score points (2 constructed-response items)
§233.15	French: Early Childhood-Grade 12	710 TX PACT LOTE French: Early Childhood-Grade 12	57 out of 80 selected-response items 10 out of 16 score points (2 constructed-response items)

<b>Certificate TAC Reference</b>	<b>Certificate Name</b>	<b>Pre-Admission Content Test</b>	<b>Passing Standard</b>
<b>Languages Other Than English</b> (continued)			
§233.15	German: Early Childhood-Grade 12	711 TX PACT LOTE German: Early Childhood-Grade 12	59 out of 80 selected-response items  11 out of 16 score points (2 constructed-response items)
§233.15	Hindi: Early Childhood-Grade 12	ACTFL 622 OPI – Hindi and 623 WPT – Hindi	ACTFL 622 OPI – Hindi: Advanced Low; 623 WPT – Hindi: Advanced Low
§233.15	Italian: Early Childhood-Grade 12	ACTFL 624 OPI – Italian and 625 WPT – Italian	ACTFL 624 OPI – Italian: Advanced Low; 625 WPT – Italian: Advanced Low
§233.15	Japanese: Early Childhood-Grade 12	ACTFL 607 OPI – Japanese and 602 WPT – Japanese	ACTFL 607 OPI – Japanese: Intermediate High; 602 WPT – Japanese: Intermediate High
§233.15	Korean: Early Childhood-Grade 12	ACTFL 630 OPI – Korean and 631 WPT – Korean	ACTFL 630 OPI – Korean: Advanced Low; 631 WPT – Korean: Advanced Low
§233.15	Latin: Early Childhood-Grade 12	712 TX PACT LOTE Latin: Early Childhood-Grade 12	31 out of 50 selected-response items  11 out of 16 score points (2 constructed-response items)



<b>Certificate TAC Reference</b>	<b>Certificate Name</b>	<b>Pre-Admission Content Test</b>	<b>Passing Standard</b>
<b>Languages Other Than English (continued)</b>			
§233.15	Portuguese: Early Childhood-Grade 12	ACTFL 632 OPI – Portuguese and 633 WPT – Portuguese	ACTFL 632 OPI – Portuguese: Advanced Low; 633 WPT – Portuguese: Advanced Low
§233.15	Russian: Early Childhood-Grade 12	ACTFL 608 OPI – Russian and 603 WPT – Russian	ACTFL 608 OPI – Russian: Intermediate High; 603 WPT – Russian: Intermediate High
§233.15	Spanish: Early Childhood-Grade 12	713 TX PACT LOTE Spanish: Early Childhood-Grade 12	55 out of 80 selected-response items 12 out of 16 score points (2 constructed-response items)
§233.15	Turkish: Early Childhood-Grade 12	ACTFL 626 OPI – Turkish and 627 WPT – Turkish	ACTFL 626 OPI – Turkish: Advanced Low; 627 WPT – Turkish: Intermediate High
§233.15	Vietnamese: Early Childhood-Grade 12	ACTFL 609 OPI – Vietnamese and 604 WPT – Vietnamese	ACTFL 609 OPI – Vietnamese: Advanced Mid; 604 WPT – Vietnamese: Advanced Low
<b>Mathematics and Science</b>			
§233.4	Mathematics: Grades 4-8	715 TX PACT Mathematics: Grades 4-8	58 out of 100 selected-response items
§233.4	Science: Grades 4-8	716 TX PACT Science: Grades 4-8	62 out of 100 selected-response items

<b>Certificate TAC Reference</b>	<b>Certificate Name</b>	<b>Pre-Admission Content Test</b>	<b>Passing Standard</b>
<b>Mathematics and Science</b> (continued)			
§233.4	Mathematics/Science: Grades 4-8	715 TX PACT Mathematics: Grades 4-8 and 716 TX PACT Science: Grades 4-8	(715) 58 out of 100 selected-response items (716) 62 out of 100 selected-response items
§233.4	Mathematics: Grades 7-12	735 TX PACT Mathematics: Grades 7-12	52 out of 100 selected-response items
§233.4	Science: Grades 7-12	736 TX PACT Science: Grades 7-12	48 out of 100 selected-response items
§233.4	Life Science: Grades 7-12	738 TX PACT Life Science: Grades 7-12	63 out of 100 selected-response items
§233.4	Physical Science: Grades 6-12	737 TX PACT Physical Science: Grades 6-12	61 out of 100 selected-response items
§233.4	Physics/Mathematics Grades 7-12	735 TX PACT: Mathematics: Grades 7-12 and 739 TX PACT: Physics Grades 7-12	(735) 52 out of 100 selected-response items (739) 52 out of 100 selected-response items
§233.4	Mathematics/Physical Science/Engineering: Grades 6-12	735 TX PACT Mathematics: Grades 7-12 and 737 TX PACT Physical Science: Grades 6-12	(735) 52 out of 100 selected-response items (737) 61 out of 100 selected-response items
§233.4	Chemistry: Grades 7-12	740 TX PACT Chemistry: Grades 7-12	62 out of 100 selected-response items
<b>Music</b>			
§233.10	Music: Early Childhood-Grade 12	777 TX PACT Music: Early Childhood-Grade 12	68 out of 100 selected-response items

<b>Certificate TAC Reference</b>	<b>Certificate Name</b>	<b>Pre-Admission Content Test</b>	<b>Passing Standard</b>
<b>Physical Education</b>			
§233.12	Physical Education: Early Childhood-Grade 12	758 TX PACT Physical Education: Early Childhood-Grade 12	52 out of 80 selected-response items
<b>Social Studies</b>			
§233.3	Social Studies: Grades 4-8	718 TX PACT Social Studies: Grades 4-8	57 out of 100 selected-response items
§233.3	Social Studies: Grades 7-12	732 TX PACT Social Studies: Grades 7-12	62 out of 100 selected-response items
§233.3	History: Grades 7-12	733 TX PACT History: Grades 7-12	57 out of 100 selected-response items
<b>Speech Communications</b>			
§233.3	Speech: Grades 7-12	729 TX PACT Speech: Grades 7-12	40 out of 64 selected-response items 5 out of 8 score points (1 constructed-response item)
<b>Special Education</b>			
§233.8	Special Education: Early Childhood-Grade 12	701 TX PACT: Essential Academic Skills (Subtest I: Reading) and 702 TX PACT: Essential Academic Skills (Subtest II: Writing) and 703 TX PACT: Essential Academic Skills (Subtest III: Mathematics)	(701) 25 out of 35 selected-response items (702) 20 out of 30 selected-response items (702) 5 out of 8 score points (1 constructed-response item) (703) 23 out of 36 selected-response items

<b>Certificate TAC Reference</b>	<b>Certificate Name</b>	<b>Pre-Admission Content Test</b>	<b>Passing Standard</b>
<b>Special Education</b> (continued)			
§233.8	Teacher of the Deaf and Hard of Hearing: Early Childhood-Grade 12	701 TX PACT: Essential Academic Skills (Subtest I: Reading) and 702 TX PACT: Essential Academic Skills (Subtest II: Writing) and 703 TX PACT: Essential Academic Skills (Subtest III: Mathematics)	(701) 25 out of 35 selected-response items (702) 20 out of 30 selected-response items (702) 5 out of 8 score points (1 constructed-response item) (703) 23 out of 36 selected-response items
<b>Theatre</b>			
§233.10	Theatre: Early Childhood-Grade 12	780 TX PACT Theatre: Early Childhood-Grade 12	48 out of 80 selected-response items

Figure: 19 TAC Chapter 228 - Preamble

Proposed new §228.10(g) would provide clarification to EPPs on how to add replacement certificates to their certification offerings due to the addition of the science of teaching reading requirement codified in HB 3, 86th Texas Legislature, 2019. The current and replacement certificates are:

<b>Current Certificates</b>	<b>Replacement Certificates Reflecting the Science of Teaching Reading</b>
Core Subjects: Early Childhood-Grade 6	Core Subjects with Science of Teaching Reading: Early Childhood-Grade 6
Core Subjects: Grades 4-8	Core Subjects with Science of Teaching Reading: Grades 4-8
English Language Arts and Reading: Grades 4-8	English Language Arts and Reading with Science of Teaching Reading: Grades 4-8
English Language Arts and Reading/Social Studies: Grades 4-8	English Language Arts and Reading/Social Studies with Science of Teaching Reading: Grades 4-8

Figure: 19 TAC Chapter 230 - Preamble

The proposed amendment to §230.21(e) would update the figure to include the four replacement certificates proposed in Chapter 233 and the associated certification examinations requirements along with the corresponding operational dates of those examinations. The current and replacement certificates with the corresponding content pedagogy examinations are:

<b>Certificate</b>	<b>Relevant Content Pedagogy Test(s)</b>
Core Subjects: Early Childhood-Grade 6	<ul style="list-style-type: none"> <li>• 291 Core Subjects EC-6 TExES</li> </ul>
Core Subjects with Science of Teaching Reading: Early Childhood-Grade 6	<ul style="list-style-type: none"> <li>• 293 Science of Teaching Reading TExES <b>and either:</b></li> <li>• 291 Core Subjects EC-6 TExES (last operational date 12/31/2021) <b>or</b></li> <li>• 391 Core Subjects EC-6 TExES (starting 1/1/2021)</li> </ul>
Core Subjects: Grades 4-8	<ul style="list-style-type: none"> <li>• 211 Core Subjects 4-8 TExES</li> </ul>
Core Subjects with Science of Teaching Reading: Grades 4-8	<ul style="list-style-type: none"> <li>• 293 Science of Teaching Reading TExES <b>and</b></li> <li>• 211 Core Subjects 4-8 TExES</li> </ul>
English Language Arts and Reading: Grades 4-8	<ul style="list-style-type: none"> <li>• 117 English Language Arts and Reading 4-8 TExES</li> </ul>
English Language Arts and Reading with Science of Teaching Reading: Grades 4-8	<ul style="list-style-type: none"> <li>• 293 Science of Teaching Reading TExES <b>and</b></li> <li>• 117 English Language Arts and Reading 4-8 TExES (last operational date 12/31/2021) <b>or</b></li> <li>• 217 English Language Arts and Reading 4-8 TExES (starting 1/1/2022)</li> </ul>
English Language Arts and Reading/Social Studies: Grades 4-8	<ul style="list-style-type: none"> <li>• 113 English Language Arts and Reading/Social Studies 4-8 TExES</li> </ul>
English Language Arts and Reading/Social Studies with Science of Teaching Reading: Grades 4-8	<ul style="list-style-type: none"> <li>• 293 Science of Teaching Reading TExES, <b>and</b></li> <li>• 113 English Language Arts and Reading/Social Studies 4-8 TExES</li> </ul>

Figure: 19 TAC §230.21(e)

Certificate TAC Reference	Certificate Name	Required Content Pedagogy Test(s)	Pedagogical Requirement(s)
<b>Art</b>			
§233.10	Art: Early Childhood-Grade 12	178 Art EC-12 Texas Examinations of Educator Standards (TExES)	160 Pedagogy and Professional Responsibilities (PPR) EC-12 TExES or 2015 edTPA: Visual Arts (pilot exam)
<b>Bilingual Education</b>			
§233.6	Bilingual Education Supplemental: Spanish	164 Bilingual Education Supplemental TExES <b>and</b> 190 Bilingual Target Language Proficiency (BTLPT) – Spanish TExES	Not Applicable: Not a Stand-alone Certificate
§233.6	Bilingual Education Supplemental: American Sign Language	164 Bilingual Education Supplemental TExES <b>and</b> 184 American Sign Language (ASL) EC-12 TExES <b>and</b> 073 Texas Assessment of Sign Communications- American Sign Language (TASC-ASL)	Not Applicable: Not a Stand-alone Certificate
§233.6	Bilingual Education Supplemental: Arabic	164 Bilingual Education Supplemental TExES <b>and</b> American Council for the Teaching of Foreign Languages (ACTFL) 614 Oral Proficiency Interview (OPI) – Arabic <b>and</b> 615 Writing Proficiency Test (WPT) – Arabic	Not Applicable: Not a Stand-alone Certificate
§233.6	Bilingual Education Supplemental: Chinese	164 Bilingual Education Supplemental TExES <b>and</b> ACTFL 618 OPI – Chinese (Mandarin) <b>and</b> 619 WPT – Chinese (Mandarin)	Not Applicable: Not a Stand-alone Certificate

<b>Certificate TAC Reference</b>	<b>Certificate Name</b>	<b>Required Content Pedagogy Test(s)</b>	<b>Pedagogical Requirement(s)</b>
<b>Bilingual Education</b> (continued)			
§233.6	Bilingual Education Supplemental: Japanese	164 Bilingual Education Supplemental TExES <b>and</b> ACTFL 616 OPI – Japanese <b>and</b> 617 WPT – Japanese	Not Applicable: Not a Stand-alone Certificate
§233.6	Bilingual Education Supplemental: Vietnamese	164 Bilingual Education Supplemental TExES <b>and</b> ACTFL 620 OPI – Vietnamese <b>and</b> 621 WPT – Vietnamese	Not Applicable: Not a Stand-alone Certificate
<b>Career and Technical Education</b>			
§233.13	Technology Education: Grades 6-12	171 Technology Education 6-12 TExES	160 PPR EC-12 TExES or 2143 edTPA: Technology and Engineering Education (pilot exam)
§233.13	Family and Consumer Sciences, Composite: Grades 6-12	American Association of Family and Consumer Sciences (AAFCS) 200 Family and Consumer Sciences – Composite Examination	160 PPR EC-12 TExES or 2117 edTPA: Family and Consumer Sciences (pilot exam)
§233.13	Human Development and Family Studies: Grades 8-12	AAFCS 202 Human Development and Family Studies Concentration Examination	160 PPR EC-12 TExES or 2117 edTPA: Family and Consumer Sciences (pilot exam)
§233.13	Hospitality, Nutrition, and Food Sciences: Grades 8-12	AAFCS 201 Hospitality, Nutrition, and Food Science Concentration Examination	160 PPR EC-12 TExES or 2117 edTPA: Family and Consumer Sciences (pilot exam)
§233.13	Agriculture, Food, and Natural Resources: Grades 6-12	272 Agriculture, Food, and Natural Resources 6-12 TExES	160 PPR EC-12 TExES or 2100 edTPA: Agricultural Education (pilot exam)
§233.13	Business and Finance: Grades 6-12	276 Business and Finance 6-12 TExES	160 PPR EC-12 TExES or 2102 edTPA: Business Education (pilot exam)
§233.14	Marketing: Grades 6-12	275 Marketing 6-12 TExES	160 PPR EC-12 TExES or 2102 edTPA: Business Education (pilot exam)
§233.14	Health Science: Grades 6-12	273 Health Science 6-12 TExES	160 PPR EC-12 TExES

<b>Certificate TAC Reference</b>	<b>Certificate Name</b>	<b>Required Content Pedagogy Test(s)</b>	<b>Pedagogical Requirement(s)</b>
<b>Career and Technical Education (continued)</b>			
§233.14	Trade and Industrial Education: Grades 6-12	Not Applicable	270 Pedagogy and Professional Responsibilities for Trade and Industrial Education 6-12 TExES (last operational date 8/31/2021) Starting 9/1/2021 370 Pedagogy and Professional Responsibilities for Trade and Industrial Education 6-12 TExES
§233.14	Trade and Industrial Workforce Training: Grades 6-12	Not Applicable	370 Pedagogy and Professional Responsibilities for Trade and Industrial Education 6-12 TExES
<b>Computer Science and Technology Applications</b>			
§233.5	Computer Science: Grades 8-12	241 Computer Science 8-12 TExES	160 PPR EC-12 TExES or 2143 edTPA: Technology and Engineering Education (pilot exam)
§233.5	Technology Applications: Early Childhood-Grade 12	242 Technology Applications EC-12 TExES	160 PPR EC-12 TExES or 2108 edTPA: Educational Technology Specialist (pilot exam)
<b>Core Subjects</b>			
§233.2	Core Subjects: Early Childhood-Grade 6	291 Core Subjects EC-6 TExES	160 PPR EC-12 TExES or 2110 edTPA: Elementary Education: Literacy with Mathematics Task 4 (pilot exam)



Certificate TAC Reference	Certificate Name	Required Content Pedagogy Test(s)	Pedagogical Requirement(s)
<b>Core Subjects</b> (continued)			
<u>§233.2</u>	<u>Core Subjects with Science of Teaching Reading: Early Childhood-Grade 6</u>	<u>293 Science of Teaching Reading TExES and either:</u> <u>291 Core Subjects EC-6 TExES (last operational date 12/31/2021) or</u> <u>391 Core Subjects EC-6 TExES (starting 1/1/2021)</u>	<u>160 PPR EC-12 TExES or 2110 edTPA:</u> <u>Elementary Education: Literacy with Mathematics Task 4 (pilot exam)</u>
§233.2	Core Subjects: Grades 4-8	211 Core Subjects 4-8 TExES	160 PPR EC-12 TExES or 2016 edTPA: Middle Childhood Mathematics (pilot exam) or 2017 edTPA: Middle Childhood Science (pilot exam) or 2018 edTPA: Middle Childhood English-Language Arts (pilot exam) or 2019 edTPA: Middle Childhood History/Social Studies (pilot exam)
<u>§233.2</u>	<u>Core Subjects with Science of Teaching Reading: Grades 4-8</u>	<u>293 Science of Teaching Reading TExES and 211 Core Subjects 4-8 TExES</u>	<u>160 PPR EC-12 TExES or 2016 edTPA: Middle Childhood Mathematics (pilot exam) or 2017 edTPA: Middle Childhood Science (pilot exam) or 2018 edTPA: Middle Childhood English-Language Arts (pilot exam) or 2019 edTPA: Middle Childhood History/Social Studies (pilot exam)</u>

<b>Counselor</b>			
§239.20	School Counselor: Early Childhood-Grade 12	152 School Counselor EC-12 TExES (last operational date 8/31/2021) Starting 9/1/2021 252 School Counselor EC-12 TExES	Not Applicable: Not an Initial Certificate
<b>Dance</b>			
§233.10	Dance: Grades 6-12	279 Dance 6-12 TExES	160 PPR EC-12 TExES or 2021 edTPA: K-12 Performing Arts (pilot exam)
<b>Early Childhood</b>			
§233.2	Early Childhood: Prekindergarten-Grade 3	292 Early Childhood: PK-3 TExES <b>and</b> 293 Science of Teaching Reading TExES	160 PPR EC-12 TExES or 2014 edTPA: Early Childhood Education (pilot exam)
<b>Educational Diagnostician</b>			
§239.84	Educational Diagnostician: Early Childhood-Grade 12	153 Educational Diagnostician EC-12 TExES (last operational date 12/31/2020) Starting 1/1/2021 <u>253</u> [ <del>251</del> ] Educational Diagnostician EC-12 TExES	Not Applicable: Not an Initial Certificate

Certificate TAC Reference	Certificate Name	Required Content Pedagogy Test(s)	Pedagogical Requirement(s)
<b>English Language Arts and Reading</b>			
§233.3	English Language Arts and Reading: Grades 4-8	117 English Language Arts and Reading 4-8 TExES	160 PPR EC-12 TExES or 2018 edTPA: Middle Childhood English-Language Arts (pilot exam)
<u>§233.3</u>	<u>English Language Arts and Reading with Science of Teaching Reading: Grades 4-8</u>	<u>293 Science of Teaching Reading TExES and 117 English Language Arts and Reading 4-8 TExES (last operational date 12/31/2021) or 217 English Language Arts and Reading 4-8 TExES (starting 1/1/2022)</u>	<u>160 PPR EC-12 TExES or 2018 edTPA: Middle Childhood English-Language Arts (pilot exam)</u>
§233.3	English Language Arts and Reading: Grades 7-12	231 English Language Arts and Reading 7-12 TExES	160 PPR EC-12 TExES or 2003 edTPA: Secondary English-Language Arts (pilot exam)
§233.3	English Language Arts and Reading/Social Studies: Grades 4-8	113 English Language Arts and Reading/ Social Studies 4-8 TExES	160 PPR EC-12 TExES or 2018 edTPA: Middle Childhood English-Language Arts (pilot exam) or 2019 edTPA: Middle Childhood History/Social Studies (pilot exam)
<u>§233.3</u>	<u>English Language Arts and Reading/Social Studies with Science of Teaching Reading: Grades 4-8</u>	<u>293 Science of Teaching Reading TExES and 113 English Language Arts and Reading/ Social Studies 4-8 TExES</u>	<u>160 PPR EC-12 TExES or 2018 edTPA: Middle Childhood English-Language Arts (pilot exam) or 2019 edTPA: Middle Childhood History/Social Studies (pilot exam)</u>
§239.93	Reading Specialist: Early Childhood-Grade 12	151 Reading Specialist EC-12 TExES	Not Applicable: Not an Initial Certificate

<b>Certificate TAC Reference</b>	<b>Certificate Name</b>	<b>Required Content Pedagogy Test(s)</b>	<b>Pedagogical Requirement(s)</b>
<b>English as a Second Language</b>			
§233.7	English as a Second Language Supplemental	154 English as a Second Language Supplemental TExES	Not Applicable: Not a Stand-alone Certificate
<b>Gifted and Talented</b>			
§233.9	Gifted and Talented Supplemental	162 Gifted and Talented TExES	Not Applicable: Not a Stand-alone Certificate
<b>Health</b>			
§233.11	Health: Early Childhood-Grade 12	157 Health Education EC-12 TExES	160 PPR EC-12 TExES or 2119 edTPA: Health Education (pilot exam)

<b>Certificate TAC Reference</b>	<b>Certificate Name</b>	<b>Required Content Pedagogy Test(s)</b>	<b>Pedagogical Requirement(s)</b>
<b>Journalism</b>			
§233.3	Journalism: Grades 7-12	256 Journalism 7-12 TExES	160 PPR EC-12 TExES or 2003 edTPA: Secondary English-Language Arts (pilot exam)
<b>Junior Reserve Officer Training</b>			
§233.17	Junior Reserve Officer Training Corps: Grades 6-12	Not Applicable	160 PPR EC-12 TExES
<b>Languages Other Than English</b>			
§233.15	American Sign Language: Early Childhood-Grade 12	184 ASL EC-12 TExES <b>and</b> 073 TASC-ASL	160 PPR EC-12 TExES or 2020 edTPA: World Language (pilot exam)
§233.15	Arabic: Early Childhood-Grade 12	ACTFL 605 OPI – Arabic <b>and</b> 600 WPT – Arabic	160 PPR EC-12 TExES or 2020 edTPA: World Language (pilot exam)
§233.15	Chinese: Early Childhood-Grade 12	ACTFL 606 OPI – Chinese (Mandarin) <b>and</b> 601 WPT – Chinese (Mandarin)	160 PPR EC-12 TExES or 2020 edTPA: World Language (pilot exam)
§233.15	French: Early Childhood-Grade 12	610 Languages Other Than English (LOTE) French EC-12 TExES	160 PPR EC-12 TExES or 2020 edTPA: World Language (pilot exam)
§233.15	German: Early Childhood-Grade 12	611 LOTE German EC-12 TExES	160 PPR EC-12 TExES or 2020 edTPA: World Language (pilot exam)
§233.15	Hindi: Early Childhood-Grade 12	ACTFL 622 OPI – Hindi <b>and</b> 623 WPT – Hindi	160 PPR EC-12 TExES or 2020 edTPA: World Language (pilot exam)
§233.15	Italian: Early Childhood-Grade 12	ACTFL 624 OPI – Italian <b>and</b> 625 WPT – Italian	160 PPR EC-12 TExES or 2020 edTPA: World Language (pilot exam)
§233.15	Japanese: Early Childhood-Grade 12	ACTFL 607 OPI – Japanese <b>and</b> 602 WPT – Japanese	160 PPR EC-12 TExES or 2020 edTPA: World Language (pilot exam)
§233.15	Korean: Early Childhood-Grade 12	ACTFL 630 OPI – Korean <b>and</b> 631 WPT – Korean	160 PPR EC-12 TExES or 2020 edTPA: World Language (pilot exam)

Certificate TAC Reference	Certificate Name	Required Content Pedagogy Test(s)	Pedagogical Requirement(s)
<b>Languages Other Than English</b> (continued)			
§233.15	Latin: Early Childhood-Grade 12	612 LOTE Latin EC-12 TExES	160 PPR EC-12 TExES or 2104 edTPA: Classical Languages (pilot exam)
§233.15	Portuguese: Early Childhood-Grade 12	ACTFL 632 OPI – Portuguese <b>and</b> 633 WPT – Portuguese	160 PPR EC-12 TExES or 2020 edTPA: World Language (pilot exam)
§233.15	Russian: Early Childhood-Grade 12	ACTFL 608 OPI – Russian <b>and</b> 603 WPT – Russian	160 PPR EC-12 TExES or 2020 edTPA: World Language (pilot exam)
§233.15	Spanish: Early Childhood-Grade 12	613 LOTE Spanish EC-12 TExES	160 PPR EC-12 TExES or 2020 edTPA: World Language (pilot exam)
§233.15	Turkish: Early Childhood-Grade 12	ACTFL 626 OPI – Turkish <b>and</b> 627 WPT – Turkish	160 PPR EC-12 TExES or 2020 edTPA: World Language (pilot exam)
§233.15	Vietnamese: Early Childhood-Grade 12	ACTFL 609 OPI – Vietnamese <b>and</b> 604 WPT – Vietnamese	160 PPR EC-12 TExES or 2020 edTPA: World Language (pilot exam)
<b>Librarian</b>			
§239.60	School Librarian: Early Childhood-Grade 12	150 School Librarian Early Childhood-12 TExES	Not Applicable: Not an Initial Certificate

<b>Certificate TAC Reference</b>	<b>Certificate Name</b>	<b>Required Content Pedagogy Test(s)</b>	<b>Pedagogical Requirement(s)</b>
<b>Mathematics and Science</b>			
§233.4	Mathematics: Grades 4-8	115 Mathematics 4-8 TExES	160 PPR EC-12 TExES or 2016 edTPA: Middle Childhood Mathematics (pilot exam)
§233.4	Science: Grades 4-8	116 Science 4-8 TExES	160 PPR EC-12 TExES or 2017 edTPA: Middle Childhood Science (pilot exam)
§233.4	Mathematics/Science: Grades 4-8	114 Mathematics/ Science 4-8 TExES	160 PPR EC-12 TExES or 2016 edTPA: Middle Childhood Mathematics (pilot exam) or 2017 edTPA: Middle Childhood Science (pilot exam)
§233.4	Mathematics: Grades 7-12	235 Mathematics 7-12 TExES	160 PPR EC-12 TExES or 2005 edTPA: Secondary Mathematics (pilot exam)
§233.4	Science: Grades 7-12	236 Science 7-12 TExES	160 PPR EC-12 TExES or 2006 edTPA: Secondary Science (pilot exam)
§233.4	Life Science: Grades 7-12	238 Life Science 7-12 TExES	160 PPR EC-12 TExES or 2006 edTPA: Secondary Science (pilot exam)

<b>Certificate TAC Reference</b>	<b>Certificate Name</b>	<b>Required Content Pedagogy Test(s)</b>	<b>Pedagogical Requirement(s)</b>
<b>Mathematics and Science</b> (continued)			
§233.4	Physical Science: Grades 6-12	237 Physical Science 6-12 TExES	160 PPR EC-12 TExES or 2006 edTPA: Secondary Science (pilot exam)
§233.4	Physics/Mathematics: Grades 7-12	243 Physics/Mathematics 7-12 TExES	160 PPR EC-12 TExES or 2005 edTPA: Secondary Mathematics (pilot exam) or 2006 edTPA: Secondary Science (pilot exam)
§233.4	Mathematics/Physical Science/Engineering: Grades 6-12	274 Mathematics/Physical Science/Engineering 6-12 TExES	160 PPR EC-12 TExES or 2005 edTPA: Secondary Mathematics (pilot exam) or 2006 edTPA: Secondary Science (pilot exam) or 2143 edTPA: Technology and Engineering Education (pilot exam)
§233.4	Chemistry: Grades 7-12	240 Chemistry 7-12 TExES	160 PPR EC-12 TExES or 2006 edTPA: Secondary Science (pilot exam)
<b>Music</b>			
§233.10	Music: Early Childhood-Grade 12	177 Music EC-12 TExES	160 PPR EC-12 TExES or 2021 edTPA: K-12 Performing Arts (pilot exam)
<b>Physical Education</b>			
§233.12	Physical Education: Early Childhood-Grade 12	158 Physical Education EC-12 TExES	160 PPR EC-12 TExES or 2011 edTPA: Physical Education (pilot exam)



<b>Certificate TAC Reference</b>	<b>Certificate Name</b>	<b>Required Content Pedagogy Test(s)</b>	<b>Pedagogical Requirement(s)</b>
<b>Principal and Superintendent</b>			
§241.20	Principal as Instructional Leader: Early Childhood-Grade 12	268 Principal as Instructional Leader TExES	Educational Testing Service (ETS) 368 Performance Assessment for School Leaders (PASL)
§241.35	Principal as Instructional Leader Endorsement	Not Applicable: Not an Initial Certificate (Individuals must already hold a valid certificate to serve in the role of principal to be eligible for this endorsement.)	Educational Testing Service (ETS) 368 Performance Assessment for School Leaders (PASL)
§242.20	Superintendent: Early Childhood-Grade 12	195 Superintendent TExES	Not Applicable: Not an Initial Certificate
<b>Social Studies</b>			
§233.3	Social Studies: Grades 4-8	118 Social Studies 4-8 TExES	160 PPR EC-12 TExES or 2019 edTPA: Middle Childhood History/Social Studies (pilot exam)
§233.3	Social Studies: Grades 7-12	232 Social Studies 7-12 TExES	160 PPR EC-12 TExES or 2004 edTPA: Secondary History/Social Studies (pilot exam)
§233.3	History: Grades 7-12	233 History 7-12 TExES	160 PPR EC-12 TExES or 2004 edTPA: Secondary History/Social Studies (pilot exam)
<b>Speech Communications</b>			
§233.3	Speech: Grades 7-12	129 Speech 7-12 TExES	160 PPR EC-12 TExES or 2003 edTPA: Secondary English-Language Arts (pilot exam)
<b>Special Education</b>			
§233.8	Special Education: Early Childhood-Grade 12	161 Special Education EC-12 TExES	160 PPR EC-12 TExES or 2012 edTPA: Special Education (pilot exam)
§233.8	Special Education Supplemental	163 Special Education Supplemental TExES	Not Applicable: Not a Stand-alone Certificate

Certificate TAC Reference	Certificate Name	Required Content Pedagogy Test(s)	Pedagogical Requirement(s)
<b>Special Education</b> (continued)			
§233.8	Teacher of the Deaf and Hard of Hearing: Early Childhood-Grade 12	181 Deaf and Hard of Hearing EC-12 TExES <b>and</b> 072 TASC or 073 TASC-ASL (required for assignment but not for certification)	160 PPR EC-12 TExES or 2012 edTPA: Special Education (pilot exam)
§233.8	Teacher of Students with Visual Impairments Supplemental: Early Childhood-Grade 12	182 Visually Impaired TExES <b>and</b> <del>183 Braille TExES or</del> 283 Braille TExES	Not Applicable: Not a Stand-alone Certificate
<b>Theatre</b>			
§233.10	Theatre: Early Childhood-Grade 12	180 Theatre EC-12 TExES	160 PPR EC-12 TExES or 2021 edTPA: K-12 Performing Arts (pilot exam)

Figure: 19 TAC Chapter 233 - Preamble

House Bill 3, 86th Texas Legislature, 2019, requires that all educators who teach any grade level from Prekindergarten-Grade 6 demonstrate proficiency in the science of teaching reading on a certification examination beginning January 1, 2021. To comply with the enabling legislation, the current certificates that cover those grades must be updated to reflect the inclusion of the science of teaching reading component on each of those certificates. The current and proposed replacement certificates are:

Current Certificates	Proposed Replacement Certificates Reflecting the Science of Teaching Reading
Core Subjects: Early Childhood-Grade 6	Core Subjects with Science of Teaching Reading: Early Childhood-Grade 6
Core Subjects: Grades 4-8	Core Subjects with Science of Teaching Reading: Grades 4-8
English Language Arts and Reading: Grades 4-8	English Language Arts and Reading with Science of Teaching Reading: Grades 4-8
English Language Arts and Reading/Social Studies: Grades 4-8	English Language Arts and Reading/Social Studies with Science of Teaching Reading: Grades 4-8

# IN ADDITION

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings issued by the Office of Consumer Credit Commissioner, and consultant proposal requests and awards. State agencies also may publish other notices of general interest as space permits.

## Texas Department of Agriculture

### 2020 Expanding Nutrition Education Grant Program - Request for Applications

The Texas Department of Agriculture (TDA) is accepting applications for the Expanding the 3E's Grant Program (X3E), in accordance with Texas Education Code §38.026, in which the state legislature has appropriated funding to TDA award grants up to \$10,000 to public school campuses that are in good standing with the Texas Comptroller's Office and have clearly demonstrated the use of best practices in nutrition education.

TDA is authorized by §12.0027 of the Texas Agriculture Code to administer the 3E's Grant Program (3E's) to promote better health and nutrition programs and prevent obesity among children in this state. The objective of the program is to increase awareness of the importance of good nutrition, especially for children, and to encourage children's health and well-being through education, exercise and eating right. TDA's 3E's Grant Program consists of two program categories:

1. Establishing the 3E's Grant Program (Establish3E) -- a program that incentivizes nutrition education programs in any childcare institution or community organization; and
2. Expanding the 3E's Grant Program (X3E) -- a program that provides grants for nutrition education programs in public schools only.

This RFA is for the X3E grant program only. Grant applications will be accepted from any public school campus in the State of Texas in good standing with the Texas Department of Agriculture. If multiple campuses in a district are applying for the same project, the requests should be combined into one application. The application will require the school district to list participating campus names and the requested amount per campus. Applicants may seek up to \$10,000 per campus for expenses related to the implementation, supplementation, improvement, or expansion of farm to school activities proposed in the application. Total funding awarded to a single school district may be limited to \$50,000.

Selected projects will receive funding on a cost reimbursement basis. Funds will not be advanced to grantees. Selected applicants must have the financial capacity to pay all costs up-front.

**Application Requirements and Deadline.** Application and information can be downloaded from TDA's website at: [www.texasagriculture.gov](http://www.texasagriculture.gov) under the Grants & Services Tab.

One complete application packet, including the proposal narrative and signed application, must be received by TDA before close of business (5:00 p.m. CST) on Wednesday, June 24, 2020. It is the applicant's responsibility to ensure the timely delivery of all required materials.

For questions regarding submission of the proposal and/or TDA requirements, please contact TDA's Grants Office, at (512) 463-7448 or by email at [Grants@TexasAgriculture.gov](mailto:Grants@TexasAgriculture.gov).

Texas Public Information Act. Once submitted, all applications shall be deemed to be the property of the TDA and are subject to the Texas Public Information Act, Texas Government Code, Chapter 552.

TRD-202001933

Skyler Shafer

Assistant General Counsel

Texas Department of Agriculture

Filed: May 15, 2020

## Office of Consumer Credit Commissioner

### Notice of Rate Ceilings

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in §§303.003, 303.009 and 304.003, Texas Finance Code.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 05/25/20 - 05/31/20 is 18% for Consumer<sup>1</sup>/Agricultural/Commercial<sup>2</sup> credit through \$250,000.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 05/25/20 - 05/31/20 is 18% for Commercial over \$250,000.

The judgment ceiling as prescribed by §304.003 for the period of 06/01/20 - 06/30/20 is 5.00% for Consumer/Agricultural/Commercial credit through \$250,000.

The judgment ceiling as prescribed by §304.003 for the period of 06/01/20 - 06/30/20 is 5.00% for commercial over \$250,000.

<sup>1</sup> Credit for personal, family or household use.

<sup>2</sup> Credit for business, commercial, investment or other similar purpose.

TRD-202001977

Leslie L. Pettijohn

Commissioner

Office of Consumer Credit Commissioner

Filed: May 19, 2020

## Credit Union Department

### Application to Amend Articles of Incorporation

Notice is given that the following application has been filed with the Credit Union Department (Department) and is under consideration:

An application for a change to its name was received from Coastal Community And Teachers Credit Union, Corpus Christi, Texas. The credit union is proposing to change its name to CoastLife Credit Union.

Comments or a request for a meeting by any interested party relating to an application must be submitted in writing within 30 days from the date of this publication. Any written comments must provide all information that the interested party wishes the Department to consider in evaluating the application. All information received will be weighed during consideration of the merits of an application. Comments or a request for a meeting should be addressed to the Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699.

TRD-202001988

John J. Kolhoff  
Commissioner  
Credit Union Department  
Filed: May 20, 2020

◆ ◆ ◆  
**Application to Expand Field of Membership**

Notice is given that the following applications have been filed with the Credit Union Department (Department) and is under consideration.

An application was received from Texell Credit Union, Temple, Texas, to expand its field of membership. The proposal would permit persons who live, work, worship or attend school in Limestone, Hill and Bosque Counties, Texas, to be eligible for membership in the credit union.

Comments or a request for a meeting by any interested party relating to an application must be submitted in writing within 30 days from the date of this publication. Credit unions that wish to comment on any application must also complete a Notice of Protest form. The form may be obtained by contacting the Department at (512) 837-9236 or downloading the form at <http://www.cud.texas.gov/page/bylaw-charter-applications>. Any written comments must provide all information that the interested party wishes the Department to consider in evaluating the application. All information received will be weighed during consideration of the merits of an application. Comments or a request for a meeting should be addressed to the Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699.

TRD-202001987  
John J. Kolhoff  
Commissioner  
Credit Union Department  
Filed: May 20, 2020

◆ ◆ ◆  
**Notice of Final Action Taken**

In accordance with the provisions of 7 TAC §91.103, the Credit Union Department provides notice of the final action taken on the following applications:

Application to Expand Field of Membership - Approved

Plus4 Credit Union, Houston, Texas - See *Texas Register* issue dated February 28, 2020.

Mobility Credit Union, Irving, Texas - See *Texas Register* issue dated February 28, 2020.

First Central Credit Union, Waco, Texas - See *Texas Register* issue dated March 27, 2020.

Articles of Incorporation Change - Approved

My Credit Union (Watauga) - See *Texas Register* issue dated March 27, 2020.

TRD-202001986  
John J. Kolhoff  
Commissioner  
Credit Union Department  
Filed: May 20, 2020

◆ ◆ ◆  
**Texas Commission on Environmental Quality**

Agreed Orders

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) in accordance with Texas Water Code (TWC), §7.075. TWC, §7.075, requires that before the commission may approve the AOs, the commission shall allow the public an opportunity to submit written comments on the proposed AOs. TWC, §7.075, requires that notice of the proposed orders and the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **June 29, 2020**. TWC, §7.075, also requires that the commission promptly consider any written comments received and that the commission may withdraw or withhold approval of an AO if a comment discloses facts or considerations that indicate that consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed AO is not required to be published if those changes are made in response to written comments.

A copy of each proposed AO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building C, 1st Floor, Austin, Texas 78753, (512) 239-2545 and at the applicable regional office listed as follows. Written comments about an AO should be sent to the enforcement coordinator designated for each AO at the commission's central office at P.O. Box 13087, Austin, Texas 78711-3087 and must be received by 5:00 p.m. on **June 29, 2020**. Written comments may also be sent by facsimile machine to the enforcement coordinator at (512) 239-2550. The commission's enforcement coordinators are available to discuss the AOs and/or the comment procedure at the listed phone numbers; however, TWC, §7.075, provides that comments on the AOs shall be submitted to the commission in writing.

(1) COMPANY: ARYHARSH CORPORATION dba Alvin Drive In; DOCKET NUMBER: 2020-0182-PST-E; IDENTIFIER: RN101725497; LOCATION: Alvin, Brazoria County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §115.241(b)(1)(B) and (b)(4) and Texas Health and Safety Code (THSC), §382.085(b), by failing to submit a notice of intent to decommission the underground storage tank (UST) system and also failing to submit the decommissioning completion notice no later than ten calendar days after completion of all decommissioning activity at the gasoline dispensing station; 30 TAC §334.8(c)(4)(A)(vii) and (5)(B)(ii), by failing to renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date; 30 TAC §334.8(c)(5)(A)(i) and TWC, §26.3467(a), by failing to make available to a common carrier a valid, current TCEQ delivery certificate before accepting a delivery of regulated substance into the USTs; and 30 TAC §334.10(b)(2), by failing to assure all UST recordkeeping requirements are met; PENALTY: \$4,193; ENFORCEMENT COORDINATOR: Carlos Molina, (512) 239-2557; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(2) COMPANY: BAILEY BARK MATERIALS, INC.; DOCKET NUMBER: 2019-1583-IWD-E; IDENTIFIER: RN105241756; LOCATION: Nacogdoches, Nacogdoches County; TYPE OF FACILITY: wood production; RULES VIOLATED: 30 TAC §305.125(1), TWC, §26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit Number WQ0005195000, Outfall Number 001, Effluent Limitations and Monitoring Requirements Number 1, by failing to comply with permitted effluent limitations; PENALTY: \$30,750; ENFORCEMENT COORDINATOR: Harley Hobson, (512) 239-1337;

REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(3) COMPANY: BAILEY BARK MATERIALS, INC.; DOCKET NUMBER: 2020-0192-MLM-E; IDENTIFIER: RN105241756; LOCATION: Nacogdoches, Nacogdoches County; TYPE OF FACILITY: mulch facility; RULES VIOLATED: 30 TAC §327.5(a) and TWC, §26.266(a), by failing to immediately abate and contain a spill or discharge; and 30 TAC §332.8(b)(1), by failing to maintain the setback distance of at least 50 feet from all property boundaries to the edge of the area receiving, processing, or storing feedstock or finished product; PENALTY: \$1,950; ENFORCEMENT COORDINATOR: Carlos Molina, (512) 239-2557; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(4) COMPANY: Bell-Milam-Falls Water Supply Corporation; DOCKET NUMBER: 2020-0113-PWS-E; IDENTIFIER: RN101233922; LOCATION: Cameron, Bell County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.42(c)(3)(G), by failing to obtain an exception, in accordance with 30 TAC §290.39(l), prior to using blended water containing free chlorine and water containing chloramines; 30 TAC §290.46(d)(2)(B) and §290.110(b)(4) and Texas Health and Safety Code, §341.0315(c), by failing to maintain a disinfectant residual of at least 0.5 milligrams per liter of chloramine (measured as total chlorine) throughout the distribution system at all times; 30 TAC §290.46(j), by failing to complete a Customer Service Inspection certificate prior to providing continuous water service to new construction or any existing service when the water purveyor has reason to believe cross-connections or other potential contamination hazards exists; 30 TAC §290.46(m), by failing to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the systems facilities and equipment; 30 TAC §290.46(z)(4), by failing to maintain a Nitrification Action Plan as a part of the systems monitoring plan, as required under 30 TAC §290.121; and 30 TAC §290.110(c)(5), by failing to conduct chloramine effectiveness sampling to ensure that monochloramine is the prevailing chloramine species and that nitrification is controlled; PENALTY: \$7,413; ENFORCEMENT COORDINATOR: Marla Waters, (512) 239-4712; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(5) COMPANY: City of Melvin; DOCKET NUMBER: 2020-0121-PWS-E; IDENTIFIER: RN101217636; LOCATION: Melvin, McCulloch County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.46(e) and Texas Health and Safety Code, §341.033(a), by failing to ensure that the production, treatment, and distribution facilities at the public water system are operated at all times under the direct supervision of a water works operator who holds an applicable, valid license issued by the executive director; PENALTY: \$765; ENFORCEMENT COORDINATOR: Epifanio Villarreal, (361) 825-3421; REGIONAL OFFICE: 622 South Oakes, Suite K, San Angelo, Texas 76903-7035, (325) 655-9479.

(6) COMPANY: City of Odem; DOCKET NUMBER: 2020-0097-PWS-E; IDENTIFIER: RN101406387; LOCATION: Odem, San Patricio County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.42(l), by failing to maintain a thorough and up-to-date plant operations manual for operator review and reference; and 30 TAC §290.121(a) and (b), by failing to maintain an up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the facility will use to comply with the monitoring requirements; PENALTY: \$230; ENFORCEMENT COORDINATOR: Jée Willis, (512) 239-1115;

REGIONAL OFFICE: 6300 Ocean Drive, Suite 1200, Corpus Christi, Texas 78412-5839, (361) 825-3100.

(7) COMPANY: LENNAR HOMES OF TEXAS LAND AND CONSTRUCTION, LTD.; DOCKET NUMBER: 2020-0131-EAQ-E; IDENTIFIER: RN106753437; LOCATION: Bulverde, Comal County; TYPE OF FACILITY: development; RULE VIOLATED: 30 TAC §213.23(i), by failing to obtain approval of a modification to an approved Edwards Aquifer Contributing Zone Plan prior to construction; PENALTY: \$2,813; ENFORCEMENT COORDINATOR: Harley Hobson, (512) 239-1337; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(8) COMPANY: M & P CONSTRUCTION CO.; DOCKET NUMBER: 2020-0197-MLM-E; IDENTIFIER: RN105597140; LOCATION: Bandera, Bandera County; TYPE OF FACILITY: aggregate production operation; RULES VIOLATED: 30 TAC §330.15(a) and (c), by failing to not cause, suffer, allow, or permit the unauthorized collection and disposal of municipal solid waste; and 30 TAC §342.25(d), by failing to renew the aggregate production operation registration annually as regulated activities continued; PENALTY: \$16,250; ENFORCEMENT COORDINATOR: Harley Hobson, (512) 239-1337; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(9) COMPANY: Medina Children's Home; DOCKET NUMBER: 2020-0141-PWS-E; IDENTIFIER: RN101252146; LOCATION: Medina, Bandera County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.45(b)(1)(C)(ii) and Texas Health and Safety Code (THSC), §341.0315(c), by failing to provide a total storage capacity of 200 gallons per connection; and 30 TAC §290.45(b)(1)(C)(iv) and THSC, §341.0315(c), by failing to provide a pressure tank capacity of 20 gallons per connection; PENALTY: \$6,300; ENFORCEMENT COORDINATOR: Steven Hall, (512) 239-2569; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(10) COMPANY: Oro Resources, LLC; DOCKET NUMBER: 2020-0157-AIR-E; IDENTIFIER: RN100911429; LOCATION: Richmond, Fort Bend County; TYPE OF FACILITY: natural gas production site; RULES VIOLATED: 30 TAC §101.10(b)(2) and (e) and Texas Health and Safety Code, §382.085(b), by failing to submit an annual emissions inventory update for the previous calendar year by March 31st of each year or as directed by the commission; PENALTY: \$1,188; ENFORCEMENT COORDINATOR: Danielle Porras, (713) 767-3682; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(11) COMPANY: Oro Resources, LLC; DOCKET NUMBER: 2020-0158-AIR-E; IDENTIFIER: RN107369720; LOCATION: Needville, Fort Bend County; TYPE OF FACILITY: natural gas production site; RULES VIOLATED: 30 TAC §101.10(b)(2) and (e) and Texas Health and Safety Code, §382.085(b), by failing to submit an annual emissions inventory update for the previous calendar year by March 31th of each year or as directed by the commission; PENALTY: \$1,188; ENFORCEMENT COORDINATOR: Danielle Porras, (713) 767-3682; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(12) COMPANY: PINEYWOODS BAPTIST ENCAMPMENT; DOCKET NUMBER: 2019-1709-MWD-E; IDENTIFIER: RN101524643; LOCATION: Groveton, Trinity County; TYPE OF FACILITY: wastewater treatment facility; RULES VIOLATED: 30 TAC §305.125(1) and TCEQ Permit Number WQ0011775001, Monitoring Requirements Number 5, by failing to accurately calibrate the flow measuring device at least annually or as often as necessary to ensure accuracy; 30 TAC §305.125(1) and TCEQ Permit Number

WQ0011775001, Special Provision Number 6, by failing to comply with permitted application rate; 30 TAC §305.125(1) and TCEQ Permit Number WQ0011775001, Special Provision Number 7, by failing to design and manage irrigation practices to prevent ponding of effluent; 30 TAC §305.125(1) and TCEQ Permit Number WQ0011775001, Special Provisions Number 8, by failing to abstain from irrigating during rainfall events or when the ground is frozen or saturated; 30 TAC §305.125(1) and (5), and TCEQ Permit Number WQ0011775001, Operational Requirements Number 1, by failing to ensure the facility and all of its systems of collection, treatment, and disposal are properly operated and maintained; 30 TAC §305.125(1) and (9)(A) and TCEQ Permit Number WQ0011775001, Monitoring and Reporting Requirements Number 7, by failing to report to the TCEQ in writing, any effluent violation which deviates from the permitted effluent limitation by more than 40% within five working days of becoming aware of noncompliance; 30 TAC §305.125(1) and (11)(A) and §319.5(b), and TCEQ Permit Number WQ0011775001, Effluent Limitation and Monitoring Requirements B, by failing to collect and analyze effluent samples at the intervals specified in the permit; 30 TAC §305.125(1) and (19), and TCEQ Permit Number WQ0011775001, Special Provisions Number 14, by failing to include a map depicting the areas that have received wastewater within the permanent land application fields with the annual soil analysis and laboratory reports; 30 TAC §305.125(1) and §305.126(a), and TCEQ Permit Number WQ0011775001, Operational Requirements Number 8.a, by failing to obtain necessary authorization to commence construction of the necessary additional treatment and/or collection facilities whenever the flow measurements reach 90% of the permitted daily average flow for three consecutive months; 30 TAC §305.125(1), TWC, §26.121(a)(1), and TCEQ Permit Number WQ0011775001, Effluent Limitations and Monitoring Requirements A, by failing to comply with permitted effluent limitations; and 30 TAC §305.125(11)(C)(ii) and TCEQ Permit Number WQ0011775001, Monitoring Requirements Number 3(c)(ii), by failing to properly maintain a complete record of monitoring activities; PENALTY: \$31,613; ENFORCEMENT COORDINATOR: Alejandro Laje, (512) 239-2547; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(13) COMPANY: RURAL BARDWELL WATER SUPPLY CORPORATION; DOCKET NUMBER: 2020-0160-PWS-E; IDENTIFIER: RN101196590; LOCATION: Bardwell, Ellis County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.45(f)(4) and Texas Health and Safety Code, §341.0315(c), by failing to provide a water purchase contract that authorizes a maximum daily purchase rate or a uniform purchase rate to meet a minimum production capacity of 0.6 gallons per minute per connection; and 30 TAC §290.46(z), by failing to create a Nitrification Action Plan for all systems distributing chloraminated water; PENALTY: \$125; ENFORCEMENT COORDINATOR: Julianne Dewar, (817) 588-5861; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(14) COMPANY: SAHAR BUSINESS INC dba Quick Stop; DOCKET NUMBER: 2020-0196-PST-E; IDENTIFIER: RN101444354; LOCATION: Highlands, Harris County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(c)(1) and TCEQ Agreed Order Docket Number 2017-1512-PST-E, Ordering Provision Number 2.a., by failing to monitor the underground storage tanks for releases at a frequency of at least once every 30 days; PENALTY: \$18,000; ENFORCEMENT COORDINATOR: Carlos Molina, (512) 239-2557; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(15) COMPANY: South Texas Children's Home Land Management; DOCKET NUMBER: 2020-0105-PWS-E; IDENTIFIER: RN101249373; LOCATION: Pettus, Bee County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.43(c)(6), by failing to ensure that clearwells and potable water storage tanks, including associated appurtenances such as valves, pipes, and fittings, are thoroughly tight against leakage; 30 TAC §290.44(h)(4)(C), by failing to properly complete a test report by the recognized backflow prevention assembly tester, and on a form approved by the executive director; 30 TAC §290.45(b)(1)(B)(iv) and Texas Health and Safety Code (THSC), §341.0315(c), by failing to provide a pressure tank capacity of 20 gallons per connection; 30 TAC §290.46(d)(2)(A) and §290.110(b)(4) and THSC, §341.0315(c), by failing to maintain a disinfectant residual of at least 0.2 mg/L of free chlorine throughout the distribution system at all times; 30 TAC §290.46(j), by failing to complete a Customer Service Inspection certificate prior to providing continuous service to new construction or any existing service when the water purveyor has reason to believe cross-connections or other potential contamination hazards exist, or after any material improvements, corrections, or additions to the private water distribution facilities; 30 TAC §290.46(m)(1)(B), by failing to inspect the facility's two pressure tanks annually; 30 TAC §290.46(s)(1), by failing to calibrate the facility's well meter at least once every three years; 30 TAC §290.110(d)(1), by failing to measure the free chlorine residual to a minimum accuracy of plus or minus 0.1 milligrams per liter; and 30 TAC §290.110(f)(1)(A), by failing to include in the compliance determination calculations, all samples collected at sites designated in the monitoring plan as microbiological and disinfectant residual monitoring sites; PENALTY: \$3,033; ENFORCEMENT COORDINATOR: Steven Hall, (512) 239-2569; REGIONAL OFFICE: 6300 Ocean Drive, Suite 1200, Corpus Christi, Texas 78412-5839, (361) 825-3100.

(16) COMPANY: TIDWELL WASTEWATER UTILITY, L.L.C.; DOCKET NUMBER: 2020-0143-MWD-E; IDENTIFIER: RN103218996; LOCATION: Houston, Harris County; TYPE OF FACILITY: wastewater treatment facility; RULES VIOLATED: 30 TAC §305.125(1), TWC, §26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit Number WQ0014320001, Effluent Limitations and Monitoring Requirements Number 1, by failing to comply with permitted effluent limitations; PENALTY: \$1,250; ENFORCEMENT COORDINATOR: Stephanie Frederick, (512) 239-1001; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(17) COMPANY: Tokai Carbon CB Ltd.; DOCKET NUMBER: 2019-1288-AIR-E; IDENTIFIER: RN100222413; LOCATION: Borger, Hutchinson County; TYPE OF FACILITY: carbon black manufacturer; RULES VIOLATED: 30 TAC §§101.20(3), 116.115(c), and 122.143(4), New Source Review Permit Numbers 1867A and PS-DTX1032, Special Conditions Number 1.A, Federal Operating Permit (FOP) Number O1414, General Terms and Conditions and Special Terms and Conditions Number 6, and Texas Health and Safety Code (THSC), §382.085(b), by failing to prevent unauthorized emissions; and 30 TAC §§122.132(d)(9), 122.134(b)(2), and 122.241(b) and THSC, §382.085(b), by failing to submit a complete application for a FOP renewal to include any information that has not been previously submitted; PENALTY: \$20,962; ENFORCEMENT COORDINATOR: Johnnie Wu, (512) 239-2524; REGIONAL OFFICE: 3918 Canyon Drive, Amarillo, Texas 79109-4933, (806) 353-9251.

(18) COMPANY: TRIANGLE ROTATING EQUIPMENT SPECIALIST, INC.; DOCKET NUMBER: 2020-0127-PST-E; IDENTIFIER: RN102348687; LOCATION: Orange, Orange County; TYPE OF FACILITY: temporarily out-of-service; RULES VIOLATED: 30 TAC §37.885(a)(1) and §334.54(e)(5)(B), by failing to perform a site check

and any necessary corrective actions for a temporarily out-of-service underground storage tank system in order to meet financial assurance exemption requirements; PENALTY: \$4,762; ENFORCEMENT COORDINATOR: Hailey Johnson, (512) 239-1756; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(19) COMPANY: US Ecology Texas, Inc.; DOCKET NUMBER: 2020-0169-AIR-E; IDENTIFIER: RN101445666; LOCATION: Robstown, Nueces County; TYPE OF FACILITY: industrial and hazardous waste treatment, storage, and disposal facility; RULES VIOLATED: 30 TAC §116.115(b)(2)(F) and (c), New Source Review (NSR) Permit Number 90163, General Conditions (GC) Numbers 8 and 14 and Special Conditions (SC) Number 1, and Texas Health and Safety Code (THSC), §382.085(b), by failing to comply with the maximum allowable emissions rates; 30 TAC §116.115(c), NSR Permit Number 90163, GC Number 14 and SC Number 4.A, and THSC, §382.085(b), by failing to store the cement kiln dust stockpile inside the kiln dust storage building to minimize potential fugitive emissions; and 30 TAC §116.115(c), NSR Permit Number 90163, GC Number 14 and SC Number 8, and THSC, §382.085(b), by failing to keep the roll-up doors in the Stabilization Buildings closed at all times when stabilization operations are in progress, except when in actual use for ingress and egress of personnel, parts, equipment, and materials or products; PENALTY: \$23,388; ENFORCEMENT COORDINATOR: Amanda Diaz, (512) 239-2601; REGIONAL OFFICE: 6300 Ocean Drive, Suite 1200, Corpus Christi, Texas 78412-5839, (361) 825-3100.

(20) COMPANY: WestRock Texas, L.P.; DOCKET NUMBER: 2019-1782-AIR-E; IDENTIFIER: RN102157609; LOCATION: Evadale, Jasper County; TYPE OF FACILITY: paper mill; RULES VIOLATED: 30 TAC §§101.20(3), 111.111(a)(1)(B), 116.115(c), and 122.143(4), New Source Review Permit Numbers 20365 and PSDTX785M7, Special Conditions Number 18, Federal Operating Permit (FOP) Number O1265, General Terms and Conditions (GTC) and Special Terms and Conditions (STC) Number 14, and Texas Health and Safety Code (THSC), §382.085(b), by failing to prevent an excess opacity event; and 30 TAC §101.201(e) and §122.143(4), FOP Number O1265, GTC and STC Number 2.F, and THSC, §382.085(b), by failing to submit an initial notification no later than 24 hours after the discovery of an excess opacity event; PENALTY: \$13,013; ENFORCEMENT COORDINATOR: Johnnie Wu, (512) 239-2524; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

TRD-202001970

Charmaine Backens

Director, Litigation Division

Texas Commission on Environmental Quality

Filed: May 19, 2020



Amended Notice of Application and Public Hearing for an Air Quality Standard Permit for a Concrete Batch Plant With Enhanced Controls: Proposed Air Quality Registration Number 160169

**APPLICATION.** D&K Stocker Investments, LLC, 5116 Sun Valley Drive, Fort Worth, Texas 76119-6410 has applied to the Texas Commission on Environmental Quality (TCEQ) for an Air Quality Standard Permit for a Concrete Batch Plant with Enhanced Controls Registration Number 160169 to authorize the operation of a concrete batch plant. The facility is proposed to be located at 989 Kennedy Lane, Saginaw, Tarrant County, Texas 76131. This application is being processed in an expedited manner, as allowed

by the commission's rules in 30 Texas Administrative Code, Chapter 101, Subchapter J. This link to an electronic map of the site or facility's general location is provided as a public courtesy and not part of the application or notice. For exact location, refer to application. <http://www.tceq.texas.gov/assets/public/hb610/index.html?lat=32.856613&lng=-97.346649&zoom=13&type=r>. This application was submitted to the TCEQ on February 18, 2020. The primary function of this plant is to manufacture concrete by mixing materials including (but not limited to) sand, aggregate, cement and water. The executive director has determined the application was technically complete on March 5, 2020.

**PUBLIC COMMENT / PUBLIC HEARING.** Public written comments about this application may be submitted at any time during the public comment period. The public comment period begins on the first date notice is published and extends to the close of the public hearing. Public comments may be submitted either in writing to the Texas Commission on Environmental Quality, Office of the Chief Clerk, MC-105, P.O. Box 13087, Austin, Texas 78711-3087, or electronically at [www14.tceq.texas.gov/epic/eComment/](http://www14.tceq.texas.gov/epic/eComment/). Please be aware that any contact information you provide, including your name, phone number, email address and physical address will become part of the agency's public record.

A public hearing has been scheduled, that will consist of two parts, an informal discussion period and a formal comment period. During the informal discussion period, the public is encouraged to ask questions of the applicant and TCEQ staff concerning the application, but comments made during the informal period will not be considered by the executive director before reaching a decision on the permit, and no formal response will be made to the informal comments. During the formal comment period, members of the public may state their comments into the official record. **Written comments about this application may also be submitted at any time during the hearing.** The purpose of a public hearing is to provide the opportunity to submit written comments or an oral statement about the application. **The public hearing is not an evidentiary proceeding.**

**The Public Hearing is to be held:**

**Thursday, June 18, 2020, at 6:00 p.m.**

*Members of the public may listen to the hearing by calling, toll free, (562) 247-8321 and entering access code 994-640-090. Members of the public who would like to ask questions or provide comments during the hearing may access the meeting via webcast by following this link: <https://www.gotomeeting.com/webinar/join-webinar> and entering Webinar ID 989-423-971. Those without internet access may call (512) 239-1201 before the hearing begins for assistance in accessing the hearing and participating telephonically.*

*Additional information will be available on the agency calendar of events at the following link: <https://www.tceq.texas.gov/agency/decisions/hearings/calendar.html>.*

**RESPONSE TO COMMENTS.** A written response to all formal comments will be prepared by the executive director after the comment period closes. The response, along with the executive director's decision on the application, will be mailed to everyone who submitted public comments and the response to comments will be posted in the permit file for viewing.

The executive director shall approve or deny the application not later than 35 days after the date of the public hearing, considering all comments received within the comment period, and base this decision on whether the application meets the requirements of the standard permit.

**CENTRAL/REGIONAL OFFICE.** The application will be available for viewing and copying at the TCEQ Central Office and the TCEQ

Dallas/Fort Worth Regional Office, located at 2309 Gravel Drive, Fort Worth, Texas 76118-6951, during the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, beginning the first day of publication of this notice.

**INFORMATION. If you need more information about this permit application or the permitting process, please call the Public Education Program toll free at (800) 687-4040. Si desea información en español, puede llamar al (800) 687-4040.**

Further information may also be obtained from D&K Stocker Investments, LLC, 5116 Sun Valley Drive, Fort Worth, Texas 76119-6410, or by calling Ms. Monique Wells, Environmental Consultant, CIC Environmental LLC at (512) 292-4314.

Amended Notice Issuance Date: May 7, 2020

TRD-202001983

Bridget C. Bohac

Chief Clerk

Texas Commission on Environmental Quality

Filed: May 20, 2020



**Amended Notice of Public Meeting for Air Quality Standard Permit for Concrete Batch Plants: Proposed Registration No. 159336**

**Application.** AmeriTex Pipe & Products, LLC, has applied to the Texas Commission on Environmental Quality (TCEQ) for an Air Quality Standard Permit, Registration No. 159336, which would authorize construction of two permanent concrete batch plants located approximately 2,200 feet southeast of the McDonald Road and Wall Street Road intersection, Gunter, Grayson County, Texas 75058. This application is being processed in an expedited manner, as allowed by the commission's rules in 30 Texas Administrative Code, Chapter 101, Subchapter J. This link to an electronic map of the site or facility's general location is provided as a public courtesy and not part of the application or notice. For exact location, refer to application. <https://tceq.maps.arcgis.com/apps/webappviewer/index.html?id=db5bac44afbc468bbddd360f8168250f&marker=-96.772777%2C33.480555&level=12>.

The proposed facility will emit the following air contaminants: particulate matter including (but not limited to) aggregate, cement, road dust, and particulate matter with diameters of 10 microns or less and 2.5 microns or less.

The executive director has completed the administrative and technical reviews of the application and determined that the application meets all of the requirements of a standard permit authorized by 30 TAC § 116.611, which would establish the conditions under which the plant must operate.

**Public Comment/Public Meeting. You may submit public comments to the Office of the Chief Clerk at the address below.** The TCEQ will consider all public comments in developing a final decision on the application. A public meeting will be held and will consist of two parts, an Informal Discussion Period and a Formal Comment Period. A public meeting is not a contested case hearing under the Administrative Procedure Act. During the Informal Discussion Period, the public will be encouraged to ask questions of the applicant and TCEQ staff concerning the permit application. The comments and questions submitted orally during the Informal Discussion Period will not be considered before a decision is reached on the permit application and no formal response will be made. Responses will be provided orally during the Informal Discussion Period. During the Formal Comment Period on the permit application, members of the public may state

their formal comments orally into the official record. At the conclusion of the comment period, all formal comments will be considered before a decision is reached on the permit application. A written response to all formal comments will be prepared by the Executive Director and will be sent to each person who submits a formal comment or who requested to be on the mailing list for this permit application and provides a mailing address. Only relevant and material issues raised during the Formal Comment Period can be considered if a contested case hearing is granted on this permit application.

**The Public Meeting is to be held:**

**Tuesday, June 16, 2020 at 7:00 p.m.**

Members of the public may listen to the meeting by calling, toll free, (415) 930-5321 and entering access code 671-294-942. Members of the public who would like to ask questions or provide comments during the meeting may access the meeting via webcast by following this link: <https://www.gotomeeting.com/webinar/join-webinar> and entering Webinar ID 786-616-595. Those without internet access may call (512) 239-1201 before the meeting begins for assistance in accessing the meeting and participating telephonically.

Additional information will be available on the agency calendar of events at the following link: <https://www.tceq.texas.gov/agency/decisions/hearings/calendar.html>.

**Information.** Citizens are encouraged to submit written comments anytime during the public meeting or by mail before the close of the public comment period to the Office of the Chief Clerk, TCEQ, Mail Code MC-105, P.O. Box 13087, Austin, Texas 78711-3087 or electronically at <https://www14.tceq.texas.gov/epic/eComment/>. If you need more information about the permit application or the permitting process, please call the TCEQ Public Education Program, toll free, at (800) 687-4040. General information can be found at our Web site at [www.tceq.texas.gov](http://www.tceq.texas.gov). *Si desea información en español, puede llamar al (800) 687-4040.*

The executive director has made a preliminary decision to issue the registration because it meets all applicable rules. The application, executive director's preliminary decision, and standard permit will be available for viewing and copying at the TCEQ central office, the TCEQ Dallas/Fort Worth regional office, and the Gunter Library and Museum, 110 South Highway 289, Suite 4, Gunter, Grayson, Texas. If the public viewing place at the library is closed to the public, then the required documents can be viewed online at <https://tinyurl.com/yblh285w>. The facility's compliance file, if any exists, is available for public review at the TCEQ Dallas/Fort Worth Regional Office, 2309 Gravel Drive, Fort Worth, Texas. Visit [www.tceq.texas.gov/goto/cbp](http://www.tceq.texas.gov/goto/cbp) to review the standard permit. Further information may also be obtained from AmeriTex Pipe & Products, LLC, P.O. Box 150, Seguin, Texas 78156-0150 or by calling Mrs. Melissa Fitts, Vice President, Westward Environmental, Inc. at (830) 249-8284.

Persons with disabilities who need special accommodations at the public meeting should call the Office of the Chief Clerk at (512) 239-3300 or (800) RELAY-TX (TDD) at least one week prior to the meeting.

Notice Issuance Date: May 18, 2020

TRD-202001982

Bridget C. Bohac

Chief Clerk

Texas Commission on Environmental Quality

Filed: May 20, 2020





Amended Notice of Public Meeting for an Air Quality Permit:  
Permit Number 41849

**APPLICATION.** Martin Marietta Materials Southwest, LLC, 1503 LBJ Freeway, Suite 400, Dallas, Texas 75234-6007, has applied to the Texas Commission on Environmental Quality (TCEQ) for an amendment to and renewal of Air Quality Permit Number 41849, which would authorize modification to a Rock Crushing Plant located at 5529 Highway 27, Center Point, Kerr County, Texas 78010. This link to an electronic map of the site or facility's general location is provided as a public courtesy and not part of the application or notice. For exact location, refer to application. <https://tceq.maps.arcgis.com/apps/webappviewer/index.html?id=db5bac44afbc468bb-ddd360f8168250f&marker=-99.066111%2C29.956666&level=12>. The existing facility will emit the following contaminants: particulate matter including particulate matter with diameters of 10 microns or less and 2.5 microns or less.

The executive director has completed the technical review of the application and prepared a draft permit which, if approved, would establish the conditions under which the facility must operate. The executive director has made a preliminary decision to issue the permit because it meets all rules and regulations.

**PUBLIC COMMENT/PUBLIC MEETING. You may submit public comments to the Office of the Chief Clerk at the address below.** The TCEQ will consider all public comments in developing a final decision on the application. A public meeting will be held and will consist of two parts, an Informal Discussion Period and a Formal Comment Period. A public meeting is not a contested case hearing under the Administrative Procedure Act. During the Informal Discussion Period, the public will be encouraged to ask questions of the applicant and TCEQ staff concerning the permit application. The comments and questions submitted orally during the Informal Discussion Period will not be considered before a decision is reached on the permit application, and no formal response will be made. Responses will be provided orally during the Informal Discussion Period. During the Formal Comment Period on the permit application, members of the public may state their formal comments orally into the official record. At the conclusion of the comment period, all formal comments will be considered before a decision is reached on the permit application. A written response to all formal comments will be prepared by the executive director and will be sent to each person who submits a formal comment or who requested to be on the mailing list for this permit application and provides a mailing address. Only relevant and material issues raised during the Formal Comment Period can be considered if a contested case hearing is granted on this permit application.

**The Public Meeting is to be held:**

**Thursday, June 4, 2020 at 7:00 p.m.**

Members of the public may listen to the meeting by calling, toll free, (562) 247-8321 and entering access code 250-270-167. Members of the public who would like to ask questions or provide comments during the meeting may access the meeting via webcast by following this link: <https://www.gotomeeting.com/webinar/join-webinar> and entering Webinar ID 659-502-611. Those without internet access may call (512) 239-1201 before the meeting begins for assistance in accessing the meeting and participating telephonically.

Additional information will be available on the agency calendar of events at the following link: <https://www.tceq.texas.gov/agency/decisions/hearings/calendar.html>.

**INFORMATION.** Citizens are encouraged to submit written comments anytime during the public meeting or by mail before the close of the public comment period to the Office of the Chief Clerk, TCEQ,

Mail Code MC-105, P.O. Box 13087, Austin, Texas 78711-3087 or electronically at <https://www14.tceq.texas.gov/epic/eComment/>. If you need more information about the permit application or the permitting process, please call the TCEQ Public Education Program, toll free, at (800) 687-4040. General information can be found at our Web site at [www.tceq.texas.gov](http://www.tceq.texas.gov). *Si desea información en español, puede llamar al (800) 687-4040.*

The permit application, executive director's preliminary decision, and draft permit will be available for viewing and copying at the TCEQ central office, the TCEQ San Antonio regional office, and at Butt-Holdsworth Memorial Library, 505 Water Street, Kerrville, Kerr County, beginning the first day of publication of this notice. The facility's compliance file, if any exists, is available for public review at the TCEQ San Antonio Regional Office, 14250 Judson Road, San Antonio, Texas. Further information may also be obtained from Martin Marietta Materials Southwest, LLC at the address stated above or by calling Mrs. Leslie Mackay, Environmental Engineer at (210) 208-4067.

Persons with disabilities who need special accommodations at the meeting should call the Office of the Chief Clerk at (512) 239-3300 or (800) RELAY-TX (TDD) at least one week prior to the meeting.

Notice Issuance Date: May 13, 2020

TRD-202001981

Bridget C. Bohac

Chief Clerk

Texas Commission on Environmental Quality

Filed: May 20, 2020



**Enforcement Orders**

An agreed order was adopted regarding SIMPLY AQUATICS, INC. dba El Pinon Estates Water System, Docket No. 2019-0045-PWS-E on May 19, 2020, assessing \$6,424 in administrative penalties with \$1,284 deferred. Information concerning any aspect of this order may be obtained by contacting Epifanio Villarreal, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding MJP Investment Properties, LLC, Docket No. 2019-0311-PWS-E on May 19, 2020, assessing \$1,781 in administrative penalties with \$356 deferred. Information concerning any aspect of this order may be obtained by contacting Ryan Byer, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding BP AERO SERVICES, LLC, Docket No. 2019-0384-IHW-E on May 19, 2020, assessing \$5,250 in administrative penalties with \$1,050 deferred. Information concerning any aspect of this order may be obtained by contacting Ken Moller, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding BRANCH GROCERY INC, Docket No. 2019-0416-PST-E on May 19, 2020, assessing \$3,987 in administrative penalties with \$797 deferred. Information concerning any aspect of this order may be obtained by contacting Caleb Olson, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Ana Holdings, Inc. dba Happy Days Grocery, Docket No. 2019-0434-PST-E on May 19, 2020, assessing \$4,414 in administrative penalties with \$882 deferred. Infor-

mation concerning any aspect of this order may be obtained by contacting Ken Moller, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Patiya Inc dba Bogata Food Mart, Docket No. 2019-0606-PST-E on May 19, 2020, assessing \$3,609 in administrative penalties with \$721 deferred. Information concerning any aspect of this order may be obtained by contacting Ken Moller, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Jeffery S. Morris dba Jeff's Tree Service, Docket No. 2019-0612-MLM-E on May 19, 2020, assessing \$3,852 in administrative penalties with \$770 deferred. Information concerning any aspect of this order may be obtained by contacting Ken Moller, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Sumiden Wire Products Corporation, Docket No. 2019-0710-WQ-E on May 19, 2020, assessing \$5,626 in administrative penalties with \$1,125 deferred. Information concerning any aspect of this order may be obtained by contacting Steven Van Landingham, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Hanza LLC dba Fuel N Food, Docket No. 2019-0736-PST-E on May 19, 2020, assessing \$7,500 in administrative penalties with \$1,500 deferred. Information concerning any aspect of this order may be obtained by contacting Alain Elegbe, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding DETMAR LOGISTICS, LLC dba Express Energy

Services and IMPERIAL FLEET SERVICE INC dba Express Energy Services, Docket No. 2019-0806-MLM-E on May 19, 2020, assessing \$5,266 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Ian Groetsch, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding GOLAY LLC dba Ace High, Docket No. 2019-0921-PST-E on May 19, 2020, assessing \$4,668 in administrative penalties with \$933 deferred. Information concerning any aspect of this order may be obtained by contacting Tyler Smith, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding City of Petrolia, Docket No. 2019-1039-PWS-E on May 19, 2020, assessing \$2,590 in administrative penalties with \$518 deferred. Information concerning any aspect of this order may be obtained by contacting Yuliya Dunaway, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding North Kaufman Water Supply Corporation, Docket No. 2019-1050-PWS-E on May 19, 2020, assessing \$330 in administrative penalties with \$66 deferred. Information concerning any aspect of this order may be obtained by contacting Miles Wehner, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Ashita & Ashish #1, LLC dba Midcrown Food Mart, Docket No. 2019-1066-PST-E on May 19, 2020, assessing \$3,375 in administrative penalties with \$675 deferred. Information concerning any aspect of this order may be obtained by contacting Ken Moller, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding BASF TOTAL Petrochemicals LLC, Docket No. 2019-1166-AIR-E on May 19, 2020, assessing \$7,500 in administrative penalties with \$1,500 deferred. Information concerning any aspect of this order may be obtained by contacting Mackenzie Mehlmann, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Brazos Valley Spring Water, L.P., Docket No. 2019-1186-PWS-E on May 19, 2020, assessing \$780 in administrative penalties with \$156 deferred. Information concerning any aspect of this order may be obtained by contacting Samantha Duncan, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding DANNY FOIX' #3, LLC dba Fill N Chill, Docket No. 2019-1192-PST-E on May 19, 2020, assessing \$2,460 in administrative penalties with \$492 deferred. Information concerning any aspect of this order may be obtained by contacting Samantha Salas, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Shree Sudhaya Inc dba Beer & Wine Stop, Docket No. 2019-1214-PST-E on May 19, 2020, assessing \$4,500 in administrative penalties with \$900 deferred. Information concerning any aspect of this order may be obtained by contacting Katelyn Tubbs, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding NRN BUSINESS, LLC dba Guy Food Mart, Docket No. 2019-1215-PST-E on May 19, 2020, assessing \$5,250 in administrative penalties with \$1,050 deferred. Information concerning any aspect of this order may be obtained by contacting Katelyn Tubbs, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Camp Blessing Texas, Docket No. 2019-1217-PWS-E on May 19, 2020, assessing \$155 in administrative penalties with \$31 deferred. Information concerning any aspect of this order may be obtained by contacting Marla Waters, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Triumph Aerostructures, LLC, Docket No. 2019-1220-AIR-E on May 19, 2020, assessing \$6,725 in administrative penalties with \$1,345 deferred. Information concerning any aspect of this order may be obtained by contacting Richard Garza, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding TORNADO BUS COMPANY, Docket No. 2019-1246-PST-E on May 19, 2020, assessing \$3,828 in administrative penalties with \$765 deferred. Information concerning any aspect of this order may be obtained by contacting Abigail Lindsey, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Victerra Energy, LLC f/k/a Atlantic Resources Company, LLC, Docket No. 2019-1255-AIR-E on May 19, 2020, assessing \$2,888 in administrative penalties with \$577 deferred. Information concerning any aspect of this order may be obtained by contacting Rebecca Johnson, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding SRASS INVESTMENTS INC dba Circle 786 Chevron, Docket No. 2019-1281-PST-E on May 19, 2020, assessing \$3,375 in administrative penalties with \$675 deferred. Information concerning any aspect of this order may be obtained by contacting Miles Wehner, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Parman Enterprises LLC f/k/a Stewart & Stevenson LLC, Docket No. 2019-1286-AIR-E on May 19, 2020, assessing \$3,000 in administrative penalties with \$600 deferred. Information concerning any aspect of this order may be obtained by contacting Rebecca Johnson, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Harris County Water Control and Improvement District 50, Docket No. 2019-1385-PWS-E on May 19, 2020, assessing \$351 in administrative penalties with \$70 deferred. Information concerning any aspect of this order may be obtained by contacting Samantha Duncan, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Firestone Polymers, LLC, Docket No. 2019-1398-AIR-E on May 19, 2020, assessing \$6,151 in administrative penalties with \$1,230 deferred. Information concerning any aspect of this order may be obtained by contacting Mackenzie Mehlmann, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Blue Cube Operations LLC, Docket No. 2019-1429-AIR-E on May 19, 2020, assessing \$3,375 in administrative penalties with \$675 deferred. Information concerning any aspect of this order may be obtained by contacting Margarita Dennis, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Center Point Independent School District, Docket No. 2019-1449-PWS-E on May 19, 2020, assessing \$50 in administrative penalties with \$10 deferred. Information concerning any aspect of this order may be obtained by contacting Steven Hall, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding City of Aransas Pass, Docket No. 2019-1451-PWS-E on May 19, 2020, assessing \$2,142 in administrative penalties with \$428 deferred. Information concerning any aspect of this order may be obtained by contacting Ronica Rodriguez, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding City of Knollwood, Docket No. 2019-1461-PWS-E on May 19, 2020, assessing \$50 in administrative penalties with \$10 deferred. Information concerning any aspect of this order may be obtained by contacting Julianne Dewar, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding American First National Bank, Docket No. 2019-1469-PST-E on May 19, 2020, assessing \$3,937 in administrative penalties with \$787 deferred. Information concerning any aspect of this order may be obtained by contacting Hailey Johnson, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding CHATT Water Supply Corporation, Docket No. 2019-1501-PWS-E on May 19, 2020, assessing \$250 in administrative penalties with \$50 deferred. Information concerning any aspect of this order may be obtained by contacting Steven Hall, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding City of Floresville, Docket No. 2019-1507-PWS-E on May 19, 2020, assessing \$180 in administrative penalties with \$36 deferred. Information concerning any aspect of this order may be obtained by contacting Aaron Vincent, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Zachry Construction Corporation, Docket No. 2019-1512-WQ-E on May 19, 2020, assessing \$1,375 in administrative penalties with \$275 deferred. Information concerning any aspect of this order may be obtained by contacting Chris Moreno, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Alto Frio Baptist Encampment, Inc., Docket No. 2019-1516-PWS-E on May 19, 2020, assessing \$645 in administrative penalties with \$129 deferred. Information concerning any aspect of this order may be obtained by contacting Miles Wehner, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Double Diamond Utilities, Co., Docket No. 2019-1518-PWS-E on May 19, 2020, assessing \$378 in administrative penalties with \$75 deferred. Information concerning any aspect of this order may be obtained by contacting Marla Waters, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding JHJ Dream Homes of Texas, LP dba Grand Endeavor Homes, Docket No. 2019-1546-WQ-E on May 19, 2020, assessing \$1,876 in administrative penalties with \$375 deferred. Information concerning any aspect of this order may be obtained by contacting Christopher Moreno, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding City of Venus, Docket No. 2019-1556-PWS-E on May 19, 2020, assessing \$652 in administrative penalties with \$478 deferred. Information concerning any aspect of this order may be obtained by contacting Samantha Salas, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Alon USA, LP, Docket No. 2019-1558-AIR-E on May 19, 2020, assessing \$437 in administrative penalties with \$87 deferred. Information concerning any aspect of this order may be obtained by contacting Johnnie Wu, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding FLO COMMUNITY WATER SUPPLY CORPORATION, Docket No. 2019-1564-PWS-E on May 19, 2020, assessing \$5,120 in administrative penalties with \$1,024 deferred. Information concerning any aspect of this order may be obtained by contacting Marla Waters, Enforcement Coordinator at

(512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding City of Rotan, Docket No. 2019-1567-PWS-E on May 19, 2020, assessing \$290 in administrative penalties with \$58 deferred. Information concerning any aspect of this order may be obtained by contacting Jée Willis, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding A. & P. WATER SUPPLY CORPORATION, Docket No. 2019-1570-PWS-E on May 19, 2020, assessing \$450 in administrative penalties with \$90 deferred. Information concerning any aspect of this order may be obtained by contacting Steven Hall, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding American Midstream (Lavaca), LLC, Docket No. 2019-1573-AIR-E on May 19, 2020, assessing \$4,138 in administrative penalties with \$827 deferred. Information concerning any aspect of this order may be obtained by contacting Johnnie Wu, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding City of Morgan's Point, Docket No. 2019-1586-PWS-E on May 19, 2020, assessing \$51 in administrative penalties with \$10 deferred. Information concerning any aspect of this order may be obtained by contacting Aaron Vincent, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Asphalt Inc., LLC, Docket No. 2019-1626-AIR-E on May 19, 2020, assessing \$2,250 in administrative penalties with \$450 deferred. Information concerning any aspect of this order may be obtained by contacting Danielle Porras, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding C & R WATER SUPPLY INC., Docket No. 2019-1673-PWS-E on May 19, 2020, assessing \$73 in administrative penalties with \$14 deferred. Information concerning any aspect of this order may be obtained by contacting Aaron Vincent, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Texas Water Systems, Inc., Docket No. 2019-1719-PWS-E on May 19, 2020, assessing \$1,258 in administrative penalties with \$251 deferred. Information concerning any aspect of this order may be obtained by contacting Steven Hall, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding City of Josephine, Docket No. 2019-1755-MWD-E on May 19, 2020, assessing \$1,375 in administrative penalties with \$275 deferred. Information concerning any aspect of this order may be obtained by contacting Stephanie Frederick, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-202001989

Bridget C. Bohac

Chief Clerk

Texas Commission on Environmental Quality

Filed: May 20, 2020



## Enforcement Orders

An agreed order was adopted regarding WEST PARK BUSINESS INC dba Gator Stop 4, Docket No. 2017-1151-PST-E on May 20, 2020, assessing \$20,731 in administrative penalties with \$4,927 deferred. Information concerning any aspect of this order may be obtained by contacting Ian Groetsch, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Michael Johnson, Docket No. 2018-0464-PST-E on May 20, 2020, assessing \$13,180 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Ian Groetsch, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding LCY Elastomers LP, Docket No. 2018-1104-IWD-E on May 20, 2020, assessing \$30,000 in administrative penalties with \$6,000 deferred. Information concerning any aspect of this order may be obtained by contacting Caleb Olson, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Omar Tello, Docket No. 2018-1361-MSW-E on May 20, 2020, assessing \$11,250 in administrative penalties with \$10,050 deferred. Information concerning any aspect of this order may be obtained by contacting Carlos Molina, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding BNSF Railway Company and Fort Worth & Western Railroad, Docket No. 2018-1589-AIR-E on May 20, 2020, assessing \$3,750 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Clayton Smith, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding SANM INC. dba Rick's Drive In, Docket No. 2018-1668-PST-E on May 20, 2020, assessing \$21,478 in administrative penalties with \$17,878 deferred. Information concerning any aspect of this order may be obtained by contacting John Fennell, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Dril-Quip, Inc., Docket No. 2019-0165-AIR-E on May 20, 2020, assessing \$132,164 in administrative penalties with \$26,432 deferred. Information concerning any aspect of this order may be obtained by contacting Richard Garza, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Air Liquide Large Industries U.S. L.P., Docket No. 2019-0167-AIR-E on May 20, 2020, assessing \$111,376 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Carol McGrath, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding PILOT POINT RURAL WATER SUPPLY, INC., Docket No. 2019-0172-PWS-E on May 20, 2020, assessing \$1,212 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Clayton Smith, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding RSN INVESTMENTS INC dba Town & Country RV Food Mart, Docket No. 2019-0281-PST-E

on May 20, 2020, assessing \$12,703 in administrative penalties with \$7,653 deferred. Information concerning any aspect of this order may be obtained by contacting Stephanie McCurley, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Lion Elastomers LLC, Docket No. 2019-0282-AIR-E on May 20, 2020, assessing \$13,384 in administrative penalties with \$2,676 deferred. Information concerning any aspect of this order may be obtained by contacting Rebecca Johnson, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Roma Independent School District, Docket No. 2019-0320-PST-E on May 20, 2020, assessing \$8,251 in administrative penalties with \$1,650 deferred. Information concerning any aspect of this order may be obtained by contacting Tyler Richardson, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding MURPHY OIL USA, INC. dba Murphy Express 8541, Docket No. 2019-0348-PST-E on May 20, 2020, assessing \$38,725 in administrative penalties with \$7,745 deferred. Information concerning any aspect of this order may be obtained by contacting John Fennell, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding TRUNO Perpetual Point of Sale, LLC dba Cash Register Services and Montesino Developments, LLC dba Cash Register Services, Docket No. 2019-0414-PWS-E on May 20, 2020, assessing \$1,552 in administrative penalties with \$1,302 deferred. Information concerning any aspect of this order may be obtained by contacting Epifanio Villarreal, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Christian Heritage Classical School, Docket No. 2019-0425-PWS-E on May 20, 2020, assessing \$805 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Steven Hall, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding H & K JOLLY LLC, Docket No. 2019-0452-MWD-E on May 20, 2020, assessing \$48,752 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Alejandro Laje, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Anita Lewis and Cody Brent Lewis, Docket No. 2019-0471-PWS-E on May 20, 2020, assessing \$525 in administrative penalties with \$450 deferred. Information concerning any aspect of this order may be obtained by contacting Epifanio Villarreal, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding DCP Operating Company, LP, Docket No. 2019-0521-AIR-E on May 20, 2020, assessing \$3,767 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Amanda Diaz, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding North Texas Municipal Water District, Docket No. 2019-0540-WQ-E on May 20, 2020, assessing

\$7,275 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Christopher Moreno, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding the City of Corrigan, Docket No. 2019-0557-MWD-E on May 20, 2020, assessing \$18,375 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Abigail Lindsey, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Friendswood Energy Genco, LLC, Docket No. 2019-0579-AIR-E on May 20, 2020, assessing \$12,938 in administrative penalties with \$2,587 deferred. Information concerning any aspect of this order may be obtained by contacting Rebecca Johnson, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding the City of Hurst, Docket No. 2019-0642-PST-E on May 20, 2020, assessing \$14,625 in administrative penalties with \$2,925 deferred. Information concerning any aspect of this order may be obtained by contacting Ken Moller, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding the City of Poteet, Docket No. 2019-0703-MWD-E on May 20, 2020, assessing \$70,687 in administrative penalties with \$14,137 deferred. Information concerning any aspect of this order may be obtained by contacting Katelyn Tubbs, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Pelican Island Storage Terminal, LLC, Docket No. 2019-0735-AIR-E on May 20, 2020, assessing \$27,000 in administrative penalties with \$5,400 deferred. Information concerning any aspect of this order may be obtained by contacting Johnnie Wu, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding M & M Water Supply Corporation, Docket No. 2019-0775-PWS-E on May 20, 2020, assessing \$9,660 in administrative penalties with \$1,932 deferred. Information concerning any aspect of this order may be obtained by contacting Ronica Rodriguez, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Deerhaven Water Control and Improvement District, Docket No. 2019-0779-PWS-E on May 20, 2020, assessing \$351 in administrative penalties with \$351 deferred. Information concerning any aspect of this order may be obtained by contacting Ronica Rodriguez, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Westrock Texas, L.P., Docket No. 2019-0892-AIR-E on May 20, 2020, assessing \$29,625 in administrative penalties with \$5,925 deferred. Information concerning any aspect of this order may be obtained by contacting Margarita Dennis, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding the City of Buda and the Guadalupe-Blanco River Authority, Docket No. 2019-0916-MWD-E on May 20, 2020, assessing \$4,875 in administrative penalties. Information concerning any aspect of this order may be obtained

by contacting Alejandro Laje, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Troy Dodson, Docket No. 2019-0957-AIR-E on May 20, 2020, assessing \$19,687 in administrative penalties with \$3,937 deferred. Information concerning any aspect of this order may be obtained by contacting Mackenzie Mehlmann, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding the City of Refugio, Docket No. 2019-1078-MWD-E on May 20, 2020, assessing \$21,250 in administrative penalties with \$4,250 deferred. Information concerning any aspect of this order may be obtained by contacting Abigail Lindsey, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Lhoist North America of Texas, Ltd., Docket No. 2019-1221-AIR-E on May 20, 2020, assessing \$9,789 in administrative penalties with \$1,957 deferred. Information concerning any aspect of this order may be obtained by contacting Danielle Porras, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding the City of Dallas, Docket No. 2019-1229-MWD-E on May 20, 2020, assessing \$8,250 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Harley Hobson, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-202001993

Bridget C. Bohac

Chief Clerk

Texas Commission on Environmental Quality

Filed: May 20, 2020



#### Notice of a Proposed New General Permit TXG640000 Authorizing the Discharge of Wastewater

The Texas Commission on Environmental Quality (TCEQ or commission) is proposing to issue a new Texas Pollutant Discharge Elimination System (TPDES) general permit number TXG640000, which would authorize the discharge of wastewater generated as a result of conventional water treatment at water treatment facilities into or adjacent to water in the state. General permits are authorized by Texas Water Code, §26.040.

**DRAFT GENERAL PERMIT.** The executive director has prepared a draft general permit that would authorize the discharge of wastewater generated as a result of conventional water treatment at water treatment facilities into or adjacent to water in the state. No significant degradation of high quality waters is expected and existing uses will be maintained and protected. The executive director proposes to require certain dischargers to submit a Notice of Intent to obtain authorization to discharge.

The executive director has reviewed this action for consistency with the goals and policies of the Texas Coastal Management Program (CMP) according to General Land Office regulations and has determined that the action is consistent with applicable CMP goals and policies.

A copy of the draft general permit and fact sheet are available for viewing and copying at the TCEQ Office of the Chief Clerk located at the TCEQ Austin office, at 12100 Park 35 Circle, Building F;

at the TCEQ's 16 Regional Offices; and on the TCEQ website at <https://www.tceq.texas.gov/permitting/wastewater/general/index.html>. Alternately, you may request a copy of the draft general permit and fact sheet by contacting the TCEQ Office of the Chief Clerk by phone at (512) 239-3300 or by mail at TCEQ OCC, Notice Team MC-105, P.O. Box 13087, Austin, Texas 78711.

**PUBLIC COMMENT/PUBLIC MEETING.** You may submit public comments or request a public meeting about this draft general permit. The purpose of a public meeting is to provide the opportunity to submit written or oral comment or to ask questions about the draft general permit. Generally, the TCEQ will hold a public meeting if the executive director determines that there is a significant degree of public interest in the draft general permit or if requested by a state legislator. A public meeting is not a contested case hearing.

**Written public comments must be received by the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087 or electronically at <https://www.tceq.texas.gov/about/comments.html> within 30 days from the date this notice is published.**

**APPROVAL PROCESS.** After the comment period, the executive director will consider all the public comments and prepare a written response. The response will be filed with the TCEQ Office of the Chief Clerk at least 10 days before the scheduled commission meeting when the commission will consider approval of the general permit. The commission will consider all public comments in making its decision and will either adopt the executive director's response or prepare its own response. The commission will issue its written response on the general permit at the same time the commission issues or denies the general permit. A copy of any issued general permit and response to comments will be made available to the public for inspection at the agency's Austin office. A notice of the commissioners' action on the draft general permit and a copy of its response to comments will be mailed to each person who submitted a comment. Also, a notice of the commission's action on the draft general permit and the text of its response to comments will be published in the *Texas Register*.

**MAILING LISTS.** In addition to submitting public comments, you may ask to be placed on a mailing list to receive future public notices mailed by the TCEQ Office of the Chief Clerk. You may request to be added to: 1) the mailing list for this specific general permit; 2) the permanent mailing list for a specific county; or 3) both. Clearly specify the mailing lists to which you wish to be added and send your request to the TCEQ Office of the Chief Clerk at the address previously mentioned. Unless you otherwise specify, you will be included only on the mailing list for this specific general permit.

**INFORMATION.** If you need more information about this general permit or the permitting process, please call the TCEQ Public Education Program, toll free, at (800) 687-4040. General information about the TCEQ can be found at our website at: <https://www.tceq.texas.gov>.

Further information may also be obtained by calling Laurie Fleet, TCEQ Water Quality Division, at (512) 239-5445.

*Si desea información en español, puede llamar (800) 687-4040.*

TRD-202001979

Robert Martinez

Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: May 19, 2020



#### Notice of Correction to Agreed Order Number 11

In the February 14, 2020, issue of the *Texas Register* (45 TexReg 1055), the Texas Commission on Environmental Quality (commission) published notice of Agreed Orders, specifically Item Number 11, for MARTINDALE, JEFFREY S, Docket Number 2020-0031-WQ-E. The error is as submitted by the commission.

The reference to the Docket Number should be corrected to read: "2020-0031-OSS-E."

For questions concerning these errors, please contact Michael Parrish at (512) 239-2548.

TRD-202001971

Charmaine Backens

Director, Litigation Division

Texas Commission on Environmental Quality

Filed: May 19, 2020



Notice of Hearing Victor Dee Turley and Alexis Hill Turley:  
SOAH Docket No. 582-20-3486; TCEQ Docket No.  
2019-1471-MWD; Permit No. WQ0015728001

#### APPLICATION.

Victor Dee Turley and Alexis Hill Turley, 301 North Third Street, Temple, Texas 76501, have applied to the Texas Commission on Environmental Quality (TCEQ) for new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0015728001, to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 220,000 gallons per day. TCEQ received this application on September 11, 2018.

The facility will be located approximately 2,000 feet south of the intersection of Farm-to-Market Road 2268 and Gooseneck Road on Gooseneck Road, in Bell County, Texas 76571. The treated effluent will be discharged to a man-made ditch, thence to an unnamed tributary, thence to an unnamed pond (1), thence to an unnamed tributary, thence to an unnamed pond (2), thence to an unnamed tributary, thence to Smith Branch, thence to Salado Creek in Segment No. 1243 of the Brazos River Basin. The unclassified receiving water uses are minimal aquatic life use for the man-made ditch, unnamed tributary, and unnamed pond (1); limited aquatic life use for the unnamed pond (2); and intermediate aquatic life use for Smith Branch. The designated uses for Segment No. 1243 are primary contact recreation, public water supply, aquifer protection, and high aquatic life use. In accordance with 30 Texas Administrative Code (TAC) §307.5 and the TCEQ's *Procedures to Implement the Texas Surface Water Quality Standards* (June 2010), an antidegradation review of the receiving waters was performed. A Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action. Numerical and narrative criteria to protect existing uses will be maintained. A Tier 2 review has preliminarily determined that no significant degradation of water quality is expected in Smith Branch, which has been identified as having an intermediate aquatic life use. Existing uses will be maintained and protected. The preliminary determination can be reexamined and may be modified if new information is received. As a public courtesy, we have provided the following Web page to an online map of the site or the facility's general location. The online map is not part of the application or the notice: <https://tceq.maps.arcgis.com/apps/webappviewer/index.html?id=db5bac44afbc468bbddd360f8168250f&marker=-97.51271%2C30.920082&level=12>. For the exact location, refer to the application.

The TCEQ Executive Director has prepared a draft permit which, if approved, would establish the conditions under which the facility must

operate. The Executive Director has made a preliminary decision that this permit, if issued, meets all statutory and regulatory requirements. The permit application, Executive Director's preliminary decision, and draft permit are available for viewing and copying at the Bell County Clerk's Office located at 1201 Huey Road, Belton, Texas. Due the corona virus pandemic, the Bell County Clerk's Office is open to the public by appointment only at (254) 933-5162. These documents may be viewed online at <https://twochimneys.info>.

#### CONTESTED CASE HEARING.

Considering directives to protect public health, the State Office of Administrative Hearings (SOAH) will conduct a preliminary hearing via Zoom videoconference. A Zoom meeting is a secure, free meeting held over the internet that allows video, audio, or audio/video conferencing.

**9:00 a.m. - June 22, 2020**

To join the Zoom meeting via computer:

[www.zoom.us/join](http://www.zoom.us/join)

**Meeting ID:** 913-8953-5961

**Password:** 8z?Vvx

or

To join the Zoom meeting via telephone:

(346) 248-7799

**Meeting ID:** 913-8953-5961

**Password:** 970304

or

To join the Zoom meeting via Smart Device:

Download the free app

**Meeting ID:** 913-8953-5961

**Password:** 8z?Vvx

Additional details and methods for joining the Zoom meeting are available online at: [https://www.tceq.texas.gov/assets/public/comm\\_exec/agendas/comm/backup/SOAH/Turley/TurleyZoom-Info.pdf](https://www.tceq.texas.gov/assets/public/comm_exec/agendas/comm/backup/SOAH/Turley/TurleyZoom-Info.pdf)

**Visit the SOAH website for registration at:** <http://www.soah.texas.gov/>

**or call SOAH at (512) 475-4993.**

The purpose of a preliminary hearing is to establish jurisdiction, name the parties, establish a procedural schedule for the remainder of the proceeding, and to address other matters as determined by the judge. The evidentiary hearing phase of the proceeding, which will occur at a later date, will be a legal proceeding similar to a civil trial in state district court. The hearing will address the disputed issues of fact identified in the TCEQ order concerning this application issued on March 9, 2020. In addition to these issues, the judge may consider additional issues if certain factors are met.

The hearing will be conducted in accordance with Chapter 2001, Texas Government Code; Chapter 26, Texas Water Code; and the procedural rules of the TCEQ and SOAH, including 30 TAC Chapter 80 and 1 TAC Chapter 155. The hearing will be held unless all timely hearing requests have been withdrawn or denied.

To request to be a party, you must attend the hearing and show you would be adversely affected by the application in a way not common to members of the general public. Any person may attend the hearing and

request to be a party. Only persons named as parties may participate at the hearing.

**In accordance with 1 Texas Administrative Code §155.401(a), Notice of Hearing, "Parties that are not represented by an attorney may obtain information regarding contested case hearings on the public website of the State Office of Administrative Hearings at [www.soah.texas.gov](http://www.soah.texas.gov), or in printed format upon request to SOAH."**

#### **INFORMATION.**

If you need more information about the hearing process for this application, please call the Public Education Program, toll free, at (800) 687-4040. General information about the TCEQ can be found at our web site at [www.tceq.texas.gov](http://www.tceq.texas.gov).

Further information may also be obtained from Victor Dee Turley and Alexis Hill Turley at the address stated above or by calling Mr. Victor Turley, P.E., at (254) 773-2400.

Persons with disabilities who need special accommodations at the hearing should call the SOAH Docketing Department at (512) 475-4993, at least one week prior to the hearing.

Issued: May 18, 2020

TRD-202001985

Bridget C. Bohac

Chief Clerk

Texas Commission on Environmental Quality

Filed: May 19, 2020



Second Amended Notice of Hearing (to change hearing date and location.) Texas Regional Landfill Company, LP: SOAH Docket No. 582-20-2569; TCEQ Docket No. 2019-1806-MSW; Proposed Permit No. 1841B

#### **Application.**

Texas Regional Landfill Company, LP, 3 Waterway Square Place, Suite 550, The Woodlands, Texas 77380 has applied to the Texas Commission on Environmental Quality (TCEQ) for a permit amendment to authorize the expansion of the Travis County Landfill, a Type IV municipal solid waste (MSW) landfill in Travis County, Texas. The facility is located at 9600 FM 812, Austin, Travis County, Texas 78719. The TCEQ received this application on November 26, 2018. As a public courtesy, we have provided the following Web page to an online map of the site or the facility's general location. The online map is not part of the application or the notice: <https://arcgis.com/arcgis/1bzbmH>. For the exact location, refer to the application.

The TCEQ Executive Director has prepared a draft permit which, if approved, would establish the conditions under which the facility must operate. The Executive Director has made a preliminary decision that this permit, if issued, meets all statutory and regulatory requirements. The permit application, Executive Director's preliminary decision, and draft permit are available for viewing and copying at Elroy Library, 13512 FM 812, Del Valle, Travis County, Texas 78617. The permit application may be viewed online at: [https://www.tceq.texas.gov/permitting/waste\\_permits/msw\\_permits/msw\\_posted\\_apps.html](https://www.tceq.texas.gov/permitting/waste_permits/msw_permits/msw_posted_apps.html).

#### **Direct Referral.**

The Notice of Application and Preliminary Decision was published on August 22, 2019 in English and Spanish. On December 20, 2019, the Applicant filed a request for direct referral to the State Office of Administrative Hearings (SOAH). Therefore, the chief clerk has referred this

application directly to SOAH for a hearing on whether the application complies with all applicable statutory and regulatory requirements.

#### **Contested Case Hearing.**

Considering directives to protect public health, the State Office of Administrative Hearings (SOAH) will conduct a preliminary hearing via Zoom videoconference. A Zoom meeting is a secure, free meeting held over the internet that allows video, audio, or audio/video conferencing.

10:00 a.m. - June 22, 2020

To join the Zoom meeting via computer:

**[www.zoom.us/join](http://www.zoom.us/join)**

**Meeting ID:** 910-9087-4170

**Password:** 8Mrmje

or

To join the Zoom meeting via telephone:

(346) 248-7799

**Meeting ID:** 910-9087-4170

**Password:** 770160

or

To join the Zoom meeting via Smart Device:

Download the free app

**Meeting ID:** 910-9087-4170

**Password:** 8Mrmje

Additional details and methods for joining the Zoom meeting are available online in SOAH Order No. 3 at: [https://www.tceq.texas.gov/assets/public/comm\\_exec/agendas/comm/backup/SOAH/Texas\\_Regional\\_Landfill\\_Company\\_LP/2019-1806-MSW-Order3.pdf](https://www.tceq.texas.gov/assets/public/comm_exec/agendas/comm/backup/SOAH/Texas_Regional_Landfill_Company_LP/2019-1806-MSW-Order3.pdf)

**Visit the SOAH website for registration at: <http://www.soah.texas.gov/> or call SOAH at (512) 475-4993.**

The purpose of a preliminary hearing is to establish jurisdiction, name the parties, establish a procedural schedule for the remainder of the proceeding, and to address other matters as determined by the judge. The evidentiary hearing phase of the proceeding, which will occur at a later date, will be similar to a civil trial in state district court. The hearing will be conducted in accordance with Chapter 2001, Texas Government Code; Chapter 361, Texas Health and Safety Code; TCEQ rules including 30 Texas Administrative Code (TAC) Chapter 330; and the procedural rules of the TCEQ and SOAH, including 30 TAC Chapter 80 and 1 TAC Chapter 155.

To request to be a party, you must attend the hearing and show you would be adversely affected by the application in a way not common to members of the general public. Any person may attend the hearing and request to be a party. Only persons named as parties may participate at the hearing.

**In accordance with 1 Texas Administrative Code §155.401(a), Notice of Hearing, "Parties that are not represented by an attorney may obtain information regarding contested case hearings on the public website of the State Office of Administrative Hearings at [www.soah.texas.gov](http://www.soah.texas.gov), or in printed format upon request to SOAH."**

#### **Information.**

If you need more information about the hearing process for this application, please call the Public Education Program, toll free, at (800) 687-4040. General information about the TCEQ can be found at our



web site at [www.tceq.texas.gov](http://www.tceq.texas.gov). The mailing address for the TCEQ is P.O. Box 13087, Austin Texas 78711-3087.

Further information may also be obtained from Texas Regional Land-fill Company, LP at the address stated above or by calling Mr. Brett O'Connor at (832) 442-2920.

Persons with disabilities who need special accommodations at the hearing should call the SOAH Docketing Department at (512) 475-4993, at least one week prior to the hearing.

Issued: May 19, 2020

TRD-202001984

Bridget C. Bohac

Chief Clerk

Texas Commission on Environmental Quality

Filed: May 20, 2020



## Texas Ethics Commission

### List of Late Filers

Below is a list from the Texas Ethics Commission naming the filers who failed to pay the penalty fine for failure to file the report in reference to the specified filing deadline. If you have any questions, you may contact Sue Edwards at (512) 463-5800.

#### **Deadline: Lobby Activities Report due April 10, 2018**

Katheryn Johnson, 919 Congress Ave., Ste. 1500, Austin, Texas 78701

#### **Deadline: Lobby Activities Report due September 10, 2019**

Eric Woomer, 816 Congress Ave., Ste. 701, Austin, Texas 78701

#### **Deadline: Lobby Activities Report due October 10, 2019**

David P. Lancaster, 500 Chicon St., Austin, Texas 78702

#### **Deadline: Lobby Activities Report due December 10, 2019**

Danner Bethel, 208 W. 14th St., Ste. 106, Austin, Texas 78701

Jessica Donohue, State Street Bank and Trust Co., 1 Lincoln St., Boston, Massachusetts 02111

Adam Goldman, 506 W. 14th St., Ste. D, Austin, Texas 78701

Katheryn Johnson, 919 Congress Ave., Ste. 1500, Austin, Texas 78701

#### **Deadline: Lobby Activities Report due January 10, 2020**

Danner Bethel, 208 W. 14th St., Ste. 106, Austin, Texas 78701

Katheryn Johnson, 919 Congress Ave., Ste. 1500, Austin, Texas

#### **Deadline: Monthly Report due January 6, 2020 for Committees**

Prisylla Ann Jasso, Strategic International Development PAC, 612 W. Nolana, Suite 250, McAllen, Texas 78504

#### **Deadline: Monthly Report due February 5, 2020 for Committees**

Prisylla Ann Jasso, Strategic International Development PAC, 612 W. Nolana, Suite 250, McAllen, Texas 78504

TRD-202001960

Anne Temple Peters

Executive Director

Texas Ethics Commission

Filed: May 18, 2020



## Texas Facilities Commission

## Request for Proposals (RFP) #2-20690

The Texas Facilities Commission (TFC), on behalf of the Health and Human Services Commission (HHSC), Department of State Health Aging and Disability Services (DADS) and the Department of State Health Services (DSHS) announces the issuance of Request for Proposals (RFP) #303-2-20690. TFC seeks a five (5) or ten (10) year lease of approximately 26,308 square feet of office space in Austin, Travis County, Texas.

The deadline for questions is June 17, 2020 and the deadline for proposals is July 1, 2020 at 3:00 p.m. The award date is August 20, 2020. TFC reserves the right to accept or reject any or all proposals submitted. TFC is under no legal or other obligation to execute a lease on the basis of this notice or the distribution of a RFP. Neither this notice nor the RFP commits TFC to pay for any costs incurred prior to the award of a grant.

Parties interested in submitting a proposal may obtain information by contacting the Program Specialist, Evelyn Esquivel, at [Evelyn.Esquivel@tfc.state.tx.us](mailto:Evelyn.Esquivel@tfc.state.tx.us). A copy of the RFP may be downloaded from the Electronic State Business Daily at <http://www.txsmartbuy.com/spdetails/view/303-2-20690> <http://www.txsmartbuy.com/sp/303-2-20690>

TRD-202001972

Rico Gamino

Director of Procurement

Texas Facilities Commission

Filed: May 19, 2020



## Texas Department of Insurance

### Company Licensing

Application for Pavonia Life Insurance Company of Michigan, a foreign life, accident or health company, to change its name to Aspida Life Insurance Company. The home office is in Durham, North Carolina.

Any objections must be filed with the Texas Department of Insurance, within twenty (20) calendar days from the date of the *Texas Register* publication, addressed to the attention of Robert Rudnai, 333 Guadalupe Street, MC 103-CL, Austin, Texas 78701.

TRD-202001994

James Person

General Counsel

Texas Department of Insurance

Filed: May 20, 2020



## Texas Lottery Commission

Scratch Ticket Game Number 2229 "DOUBLE DIAMOND™"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2229 is "DOUBLE DIAMOND™". The play style is "slots - straight line".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 2229 shall be \$5.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2229.

A. Display Printing - That area of the Scratch Ticket outside of the area where the overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the Scratch Ticket.

C. Play Symbol - The printed data under the latex on the front of the Scratch Ticket that is used to determine eligibility for a prize. Each Play Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black Play Symbols are: BANK SYMBOL, BAR SYMBOL, COINS SYMBOL, BELL SYMBOL, CHERRY SYMBOL, CHEST SYMBOL, POKER CHIP SYMBOL, CLUB SYMBOL, CROWN SYMBOL, DIAMOND SYMBOL, RABBIT FOOT SYMBOL, HEART SYMBOL, HORSESHOE SYMBOL, KEY SYMBOL, LEMON SYMBOL, MELON SYMBOL, NECKLACE SYMBOL, RAINBOW SYMBOL, RING SYMBOL,

SEVEN SYMBOL, SPADE SYMBOL, STAR SYMBOL, SUN SYMBOL, VAULT SYMBOL, WISHBONE SYMBOL, MONEY BAG SYMBOL, \$5.00, \$10.00, \$20.00, \$50.00, \$100, \$500, \$1,000 and \$100,000.

D. Play Symbol Caption - The printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears under each Play Symbol and is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 2229 - 1.2D

PLAY SYMBOL	CAPTION
BANK SYMBOL	BANK
BAR SYMBOL	BAR
COINS SYMBOL	COINS
BELL SYMBOL	BELL
CHERRY SYMBOL	CHERRY
CHEST SYMBOL	CHEST
POKER CHIP SYMBOL	CHIP
CLUB SYMBOL	CLUB
CROWN SYMBOL	CROWN
DIAMOND SYMBOL	DIAMOND
RABBIT FOOT SYMBOL	FOOT
HEART SYMBOL	HEART
HORSESHOE SYMBOL	HORSESHOE
KEY SYMBOL	KEY
LEMON SYMBOL	LEMON
MELON SYMBOL	MELON
NECKLACE SYMBOL	NECKLACE
RAINBOW SYMBOL	RAINBOW
RING SYMBOL	RING
SEVEN SYMBOL	SEVEN
SPADE SYMBOL	SPADE
STAR SYMBOL	STAR
SUN SYMBOL	SUN
VAULT SYMBOL	VAULT
WISHBONE SYMBOL	WISHBONE
MONEY BAG SYMBOL	DBL
\$5.00	FIV\$
\$10.00	TEN\$
\$20.00	TWY\$
\$50.00	FFTY\$
\$100	ONHN
\$500	FVHN
\$1,000	ONTH
\$100,000	100 <sup>TH</sup>

E. Serial Number - A unique thirteen (13) digit number appearing under the latex scratch-off covering on the front of the Scratch Ticket. The Serial Number is for validation purposes and cannot be used to play the game. The format will be: 0000000000000.

F. Bar Code - A twenty-four (24) character interleaved two (2) of five (5) Bar Code which will include a four (4) digit game ID, the seven (7) digit Pack number, the three (3) digit Ticket number and the ten (10) digit Validation Number. The Bar Code appears on the back of the Scratch Ticket.

G. Game-Pack-Ticket Number - A fourteen (14) digit number consisting of the four (4) digit game number (2229), a seven (7) digit Pack number, and a three (3) digit Ticket number. Ticket numbers start with 001 and end with 075 within each Pack. The format will be: 2229-0000001-001.

H. Pack - A Pack of the "DOUBLE DIAMOND™" Scratch Ticket Game contains 075 Tickets, packed in plastic shrink-wrapping and fan-folded in pages of one (1). The Packs will alternate. One will show the front of Ticket 001 and back of 075 while the other fold will show the back of Ticket 001 and front of 075.

I. Non-Winning Scratch Ticket - A Scratch Ticket which is not programmed to be a winning Scratch Ticket or a Scratch Ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401.

J. Scratch Ticket Game, Scratch Ticket or Ticket - Texas Lottery "DOUBLE DIAMOND™" Scratch Ticket Game No. 2229.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general Scratch Ticket validation requirements set forth in Texas Lottery Rule 401.302, Scratch Ticket Game Rules, these Game Procedures, and the requirements set out on the back of each Scratch Ticket. A prize winner in the "DOUBLE DIAMOND™" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose eighty (80) Play Symbols. If a player reveals 3 matching Play Symbols in the same SPIN, the player wins the PRIZE for that SPIN. If the player reveals 2 matching Play Symbols and a "MONEY BAG" Play Symbol in the same SPIN, the player wins DOUBLE the PRIZE for that SPIN. No portion of the Display Printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Scratch Ticket.

#### 2.1 Scratch Ticket Validation Requirements.

A. To be a valid Scratch Ticket, all of the following requirements must be met:

1. Exactly eighty (80) Play Symbols must appear under the Latex Overprint on the front portion of the Scratch Ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each of the Play Symbols must be printed in black ink except for dual image games;
5. The Scratch Ticket shall be intact;
6. The Serial Number and Game-Pack-Ticket Number must be present in their entirety and be fully legible;
7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the Scratch Ticket;
8. The Scratch Ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;
9. The Scratch Ticket must not be counterfeit in whole or in part;
10. The Scratch Ticket must have been issued by the Texas Lottery in an authorized manner;

11. The Scratch Ticket must not have been stolen, nor appear on any list of omitted Scratch Tickets or non-activated Scratch Tickets on file at the Texas Lottery;

12. The Play Symbols, Serial Number and Game-Pack-Ticket Number must be right side up and not reversed in any manner;

13. The Scratch Ticket must be complete and not miscut, and have exactly eighty (80) Play Symbols under the Latex Overprint on the front portion of the Scratch Ticket, exactly one Serial Number and exactly one Game-Pack-Ticket Number on the Scratch Ticket;

14. The Serial Number of an apparent winning Scratch Ticket shall correspond with the Texas Lottery's Serial Numbers for winning Scratch Tickets, and a Scratch Ticket with that Serial Number shall not have been paid previously;

15. The Scratch Ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;

16. Each of the eighty (80) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the eighty (80) Play Symbols on the Scratch Ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the Scratch Ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Game-Pack-Ticket Number must be printed in the Game-Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

18. The Display Printing on the Scratch Ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The Scratch Ticket must have been received by the Texas Lottery by applicable deadlines.

B. The Scratch Ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Scratch Ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the Scratch Ticket. In the event a defective Scratch Ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective Scratch Ticket with another unplayed Scratch Ticket in that Scratch Ticket Game (or a Scratch Ticket of equivalent sales price from any other current Texas Lottery Scratch Ticket Game) or refund the retail sales price of the Scratch Ticket, solely at the Executive Director's discretion.

#### 2.2 Programmed Game Parameters.

A. A Ticket can win up to twenty (20) times in accordance with the approved prize structure.

B. Consecutive Non-Winning Tickets within a Pack will not have matching patterns, in the same order, of either Play Symbols or Prize Symbols.

C. The top Prize Symbol will appear on every Ticket, unless restricted by other parameters, play action or prize structure.

D. No three (3) or more matching non-winning Play Symbols will appear in adjacent positions diagonally or in a column.

E. The "MONEY BAG™" (DBL) Play Symbol will only appear on winning Tickets and will appear on winning SPINS as dictated by the prize structure.

F. A winning SPIN using one (1) "MONEY BAG™" (DBL) Play Symbol will include a pair of matching Play Symbols in the same SPIN.

G. No more than two (2) matching non-winning Play Symbols will appear in one (1) SPIN.

H. Non-winning Prize Symbols will never appear more than three (3) times.

I. Non-winning Prize Symbols will never be the same as the winning Prize Symbol(s).

J. There will be no duplicate SPINS in any order on a Ticket.

### 2.3 Procedure for Claiming Prizes.

A. To claim a "DOUBLE DIAMOND™" Scratch Ticket Game prize of \$5.00, \$10.00, \$20.00, \$50.00, \$100 or \$500, a claimant shall sign the back of the Scratch Ticket in the space designated on the Scratch Ticket and may present the winning Scratch Ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the Scratch Ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a \$50.00, \$100 or \$500 Scratch Ticket Game. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "DOUBLE DIAMOND™" Scratch Ticket Game prize of \$1,000 or \$100,000, the claimant must sign the winning Scratch Ticket and may present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning Scratch Ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "DOUBLE DIAMOND™" Scratch Ticket Game prize the claimant may submit the signed winning Scratch Ticket and a thoroughly completed claim form via mail. If a prize value is \$1,000,000 or more, the claimant must also provide proof of Social Security number or Tax Payer Identification (for U.S. Citizens or Resident Aliens). Mail all to: Texas Lottery Commission, P.O. Box 16600, Austin, Texas 78761-6600. The Texas Lottery is not responsible for Scratch Tickets lost in the mail. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct the amount of a delinquent tax or other money from the winnings of a prize winner who has been finally determined to be:

1. delinquent in the payment of a tax or other money to a state agency and that delinquency is reported to the Comptroller under Government Code §403.055;
  2. in default on a loan made under Chapter 52, Education Code;
  3. in default on a loan guaranteed under Chapter 57, Education Code;
- or

4. delinquent in child support payments in the amount determined by a court or a Title IV-D agency under Chapter 231, Family Code.

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;

B. if there is any question regarding the identity of the claimant;

C. if there is any question regarding the validity of the Scratch Ticket presented for payment; or

D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize under \$600 from the "DOUBLE DIAMOND™" Scratch Ticket Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of \$600 or more from the "DOUBLE DIAMOND™" Scratch Ticket Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Scratch Ticket Claim Period. All Scratch Ticket prizes must be claimed within 180 days following the end of the Scratch Ticket Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code §466.408. Any rights to a prize that is not claimed within that period, and in the manner specified in these Game Procedures and on the back of each Scratch Ticket, shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of Scratch Tickets ordered. The number of actual prizes available in a game may vary based on number of Scratch Tickets manufactured, testing, distribution, sales and number of prizes claimed. A Scratch Ticket Game may continue to be sold even when all the top prizes have been claimed.

### 3.0 Scratch Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of a Scratch Ticket in the space designated, a Scratch Ticket shall be owned by the physical possessor of said Scratch Ticket. When a signature is placed on the back of the Scratch Ticket in the space designated, the player whose signature appears in that area shall be the owner of the Scratch Ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the Scratch Ticket in the space designated. If more than one name appears on the back of the Scratch Ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Scratch Tickets and shall not be required to pay on a lost or stolen Scratch Ticket.

4.0 Number and Value of Scratch Prizes. There will be approximately 7,080,000 Scratch Tickets in Scratch Ticket Game No. 2229. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2229 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$5.00	660,800	10.71
\$10.00	1,038,400	6.82
\$20.00	188,800	37.50
\$50.00	88,500	80.00
\$100	11,800	600.00
\$500	708	10,000.00
\$1,000	150	47,200.00
\$100,000	5	1,416,000.00

\*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

\*\*The overall odds of winning a prize are 1 in 3.56. The individual odds of winning for a particular prize level may vary based on sales, distribution, testing, and number of prizes claimed.

A. The actual number of Scratch Tickets in the game may be increased or decreased at the sole discretion of the Texas Lottery Commission.

5.0 End of the Scratch Ticket Game. The Executive Director may, at any time, announce a closing date (end date) for the Scratch Ticket Game No. 2229 without advance notice, at which point no further Scratch Tickets in that game may be sold. The determination of the closing date and reasons for closing will be made in accordance with the Scratch Ticket closing procedures and the Scratch Ticket Game Rules. See 16 TAC §401.302(j).

6.0 Governing Law. In purchasing a Scratch Ticket, the player agrees to comply with, and abide by, these Game Procedures for Scratch Ticket Game No. 2229, the State Lottery Act (Texas Government Code, Chapter 466), applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401, and all final decisions of the Executive Director.

TRD-202001974

Bob Biard

General Counsel

Texas Lottery Commission

Filed: May 19, 2020



Scratch Ticket Game Number 2246 "BONUS GAME BINGO"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2246 is "BONUS GAME BINGO". The play style is "bingo".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 2246 shall be \$2.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2246.

A. Display Printing - That area of the Scratch Ticket outside of the area where the overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the Scratch Ticket.

C. Play Symbol - The printed data under the latex on the front of the Scratch Ticket that is used to determine eligibility for a prize. Each Play Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black Play Symbols are: B01, B02, B03, B04, B05, B06, B07, B08, B09, B10, B11, B12, B13, B14, B15, I16, I17, I18, I19, I20, I21, I22, I23, I24, I25, I26, I27, I28, I29, I30, N31, N32, N33, N34, N35, N36, N37, N38, N39, N40, N41, N42, N43, N44, N45, G46, G47, G48, G49, G50, G51, G52, G53, G54, G55, G56, G57, G58, G59, G60, O61, O62, O63, O64, O65, O66, O67, O68, O69, O70, O71, O72, O73, O74, O75, 01, 02, 03, 04, 05, 06, 07, 08, 09, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75 and FREE SYMBOL.

D. Play Symbol Caption - The printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears under each Play Symbol and is printed in caption font in black ink in positive. Crossword and Bingo style games do not typically have Play Symbol captions. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 2246 - 1.2D

PLAY SYMBOL	CAPTION
B01	
B02	
B03	
B04	
B05	
B06	
B07	
B08	
B09	
B10	
B11	
B12	
B13	
B14	
B15	
I16	
I17	
I18	
I19	
I20	
I21	
I22	
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FREE SYMBOL	

E. Serial Number - A unique 13 (thirteen) digit number appearing under the latex scratch-off covering on the front of the Scratch Ticket. The Serial Number is for validation purposes and cannot be used to play the game. The format will be: 0000000000000.

F. Bar Code - A 24 (twenty-four) character interleaved two (2) of five (5) Bar Code which will include a four (4) digit game ID, the seven (7) digit Pack number, the three (3) digit Ticket number and the ten

(10) digit Validation Number. The Bar Code appears on the back of the Scratch Ticket.

G. Game-Pack-Ticket Number - A 14 (fourteen) digit number consisting of the four (4) digit game number (2246), a seven (7) digit Pack number, and a three (3) digit Scratch Ticket number. Scratch Ticket numbers start with 001 and end with 125 within each Pack. The format will be: 2246-0000001-001.

H. Pack - A Pack of the "BONUS GAME BINGO" Scratch Ticket Game contains 125 Tickets, packed in plastic shrink-wrapping and fan-folded in pages of one (1). Ticket 001 will be shown on the front of the Pack; the back of Ticket 125 will be revealed on the back of the Pack. All Packs will be tightly shrink-wrapped. There will be no breaks between the Tickets in a Pack. Every other Pack will reverse i.e., reverse order will be: the back of Ticket 001 will be shown on the front of the Pack and the front of Ticket 125 will be shown on the back of the Pack.

I. Non-Winning Scratch Ticket - A Scratch Ticket which is not programmed to be a winning Scratch Ticket or a Scratch Ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401.

J. Scratch Ticket Game, Scratch Ticket or Ticket - Texas Lottery "BONUS GAME BINGO" Scratch Ticket Game No. 2246.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general Scratch Ticket validation requirements set forth in Texas Lottery Rule 401.302, Scratch Ticket Game Rules, these Game Procedures, and the requirements set out on the back of each Scratch Ticket. A prize winner in the "BONUS GAME BINGO" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose the Play Symbols as indicated per the game instructions from the total one hundred thirty-seven (137) Play Symbols. BONUS GAME BINGO PLAY INSTRUCTIONS: The player scratches the "CALLER'S CARD" area to reveal a total of twenty-eight (28) Bingo Numbers. The player scratches only those Bingo Numbers on the four (4) "BINGO CARDS" that match the "CALLER'S CARD" Bingo Numbers. The player also scratches the "FREE" spaces on the four (4) "BINGO CARDS". If a player matches all Bingo Numbers in a complete vertical, horizontal or diagonal line (five (5) Bingo Numbers or four (4) Bingo Numbers + "FREE" space), the player wins the prize in the corresponding prize legend for that "BINGO CARD". If the player matches all Bingo Numbers to complete an "X" (eight (8) Bingo Numbers + "FREE" space), the player wins the prize in the corresponding prize legend for that "BINGO CARD". BONUS GAME: The player scratches only those Bingo Numbers in the BONUS GAME card that match the "CALLERS CARD" Bingo Numbers. If a player matches all Bingo Numbers in a complete vertical or horizontal line, the player wins the prize in the corresponding arrow for that line. Note: Only the highest prize per "BINGO CARD" will be paid. No portion of the Display Printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Scratch Ticket.

#### 2.1 Scratch Ticket Validation Requirements.

A. To be a valid Scratch Ticket, all of the following requirements must be met:

1. Exactly one hundred thirty-seven (137) Play Symbols must appear under the Latex Overprint on the front portion of the Scratch Ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption. Crossword and Bingo style games do not typically have Play Symbol captions;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each of the Play Symbols must be printed in black ink except for dual image games;

5. The Scratch Ticket shall be intact;

6. The Serial Number and Game-Pack-Ticket Number must be present in their entirety and be fully legible;

7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the Scratch Ticket;

8. The Scratch Ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;

9. The Scratch Ticket must not be counterfeit in whole or in part;

10. The Scratch Ticket must have been issued by the Texas Lottery in an authorized manner;

11. The Scratch Ticket must not have been stolen, nor appear on any list of omitted Scratch Tickets or non-activated Scratch Tickets on file at the Texas Lottery;

12. The Play Symbols, Serial Number and Game-Pack-Ticket Number must be right side up and not reversed in any manner;

13. The Scratch Ticket must be complete and not miscut, and have exactly one hundred thirty-seven (137) Play Symbols under the Latex Overprint on the front portion of the Scratch Ticket, exactly one Serial Number and exactly one Game-Pack-Ticket Number on the Scratch Ticket;

14. The Serial Number of an apparent winning Scratch Ticket shall correspond with the Texas Lottery's Serial Numbers for winning Scratch Tickets, and a Scratch Ticket with that Serial Number shall not have been paid previously;

15. The Scratch Ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;

16. Each of the one hundred thirty-seven (137) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the one hundred thirty-seven (137) Play Symbols on the Scratch Ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the Scratch Ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Game-Pack-Ticket Number must be printed in the Game-Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

18. The Display Printing on the Scratch Ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The Scratch Ticket must have been received by the Texas Lottery by applicable deadlines.

B. The Scratch Ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Scratch Ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the Scratch Ticket. In the event a defective Scratch Ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective Scratch Ticket with another unplayed Scratch Ticket in that Scratch Ticket Game (or a Scratch Ticket of equivalent sales price from any other current Texas

Lottery Scratch Ticket Game) or refund the retail sales price of the Scratch Ticket, solely at the Executive Director's discretion.

## 2.2 Programmed Game Parameters.

A. GENERAL: Consecutive Non-Winning Tickets within a Pack will not have matching patterns, in the same order, of Play Symbols.

B. GENERAL: A Ticket can win as indicated by the prize structure.

C. GENERAL: A Ticket can win up to five (5) times.

D. BONUS GAME: The "BONUS GAME" Play Symbols (numbers) will be different from each other within the "BONUS GAME".

E. BONUS GAME: The "BONUS GAME" card can win as per the prize structure.

F. BONUS GAME: The "BONUS GAME" card will not have three (3) numbers matched diagonally.

G. BONUS GAME: The "BONUS GAME" card will not have four (4) numbers matched in the four (4) corners.

H. BONUS GAME: Each "BONUS GAME" card in a Pack will be different. Two (2) cards match if they have the same Play Symbols (numbers) in the same spots.

I. BINGO: The number range used for each letter (B, I, N, G, O) will be as follows: B (1-15), I (16-30), N (31-45), G (46-60) and O (61-75).

J. BINGO: No matching Play Symbols (numbers) will appear in the "CALLER'S CARD" on winning and Non-Winning Tickets.

K. BINGO: Each of the "CALLER'S CARD" Play Symbols (numbers) will appear on at least one (1) of the four (4) "BINGO CARDS" or on the "BONUS GAME" card.

L. BINGO: Each "BINGO CARD" will contain twenty-four (24) numbers and one (1) "FREE" Play Symbol fixed in the center of the CARD.

M. BINGO: There will be no matching Play Symbols (numbers) within each "BINGO CARD" play area.

N. BINGO: On winning and Non-Winning Tickets, each "BINGO CARD" on a Ticket will be different. Two (2) cards match if they have the same Play Symbols (numbers) in the same spots.

O. BINGO: There can only be one (1) winning pattern on each "BINGO CARD".

P. BINGO: Prizes for "BINGO CARDS" 1-4 are as follows:

CARD 1: LINE=\$2. 4 CORNERS=\$10. X=\$100.

CARD 2: LINE=\$3. 4 CORNERS=\$20. X=\$500.

CARD 3: LINE=\$5. 4 CORNERS=\$50. X=\$1,000.

CARD 4: LINE=\$10. 4 CORNERS=\$100. X=\$30,000.

Q. BINGO: Non-winning "BINGO CARDS" will match a minimum of three (3) Play Symbols (numbers).

## 2.3 Procedure for Claiming Prizes.

A. To claim a "BONUS GAME BINGO" Scratch Ticket Game prize of \$2.00, \$3.00, \$5.00, \$10.00, \$15.00, \$20.00, \$30.00, \$50.00, \$100 or \$500, a claimant shall sign the back of the Scratch Ticket in the space designated on the Scratch Ticket and present the winning Scratch Ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the Scratch Ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a \$30.00, \$50.00, \$100 or \$500 Scratch Ticket Game. In the event the Texas Lottery Retailer

cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "BONUS GAME BINGO" Scratch Ticket Game prize of \$1,000 or \$30,000, the claimant must sign the winning Scratch Ticket and present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning Scratch Ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "BONUS GAME BINGO" Scratch Ticket Game prize, the claimant must sign the winning Scratch Ticket, thoroughly complete a claim form, and mail both to: Texas Lottery Commission, P.O. Box 16600, Austin, Texas 78761-6600. The Texas Lottery is not responsible for Scratch Tickets lost in the mail. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct the amount of a delinquent tax or other money from the winnings of a prize winner who has been finally determined to be:

1. delinquent in the payment of a tax or other money to a state agency and that delinquency is reported to the Comptroller under Government Code §403.055;

2. in default on a loan made under Chapter 52, Education Code;

3. in default on a loan guaranteed under Chapter 57, Education Code; or

4. delinquent in child support payments in the amount determined by a court or a Title IV-D agency under Chapter 231, Family Code.

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;

B. if there is any question regarding the identity of the claimant;

C. if there is any question regarding the validity of the Scratch Ticket presented for payment; or

D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize under \$600 from the "BONUS GAME BINGO" Scratch Ticket Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a

check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of \$600 or more from the "BONUS GAME BINGO" Scratch Ticket Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Scratch Ticket Claim Period. All Scratch Ticket prizes must be claimed within 180 days following the end of the Scratch Ticket Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code §466.408. Any rights to a prize that is not claimed within that period, and in the manner specified in these Game Procedures and on the back of each Scratch Ticket, shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of Scratch Tickets ordered. The number of actual prizes available in a game may vary based on number of Scratch Tickets manufactured, testing, distribution, sales and number of prizes claimed. A Scratch Ticket Game may continue to be sold even when all the top prizes have been claimed.

3.0 Scratch Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of a Scratch Ticket in the space designated, a Scratch Ticket shall be owned by the physical possessor of said Scratch Ticket. When a signature is placed on the back of the Scratch Ticket in the space designated, the player whose signature appears in that area shall be the owner of the Scratch Ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the Scratch Ticket in the space designated. If more than one name appears on the back of the Scratch Ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Scratch Tickets and shall not be required to pay on a lost or stolen Scratch Ticket.

4.0 Number and Value of Scratch Ticket Prizes. There will be approximately 35,040,000 Scratch Tickets in Scratch Ticket Game No. 2246. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2246 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$2	3,433,920	10.20
\$3	1,191,360	29.41
\$5	1,752,000	20.00
\$10	840,960	41.67
\$15	350,400	100.00
\$20	350,400	100.00
\$30	55,480	631.58
\$50	21,900	1,600.00
\$100	14,600	2,400.00
\$500	1,168	30,000.00
\$1,000	60	584,000.00
\$30,000	18	1,946,666.67

\*The number of prizes in a game is approximate based on the number of tickets ordered.

The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

\*\*The overall odds of winning a prize are 1 in 4.37. The individual odds of winning for a particular prize level may vary based on sales, distribution, and number of prizes claimed.

A. The actual number of Scratch Tickets in the game may be increased or decreased at the sole discretion of the Texas Lottery Commission.

5.0 End of the Scratch Ticket Game. The Executive Director may, at any time, announce a closing date (end date) for the Scratch Ticket Game No. 2246 without advance notice, at which point no further

Scratch Tickets in that game may be sold. The determination of the closing date and reasons for closing will be made in accordance with the Scratch Ticket closing procedures and the Instant Game Rules. See 16 TAC §401.302(j).

6.0 Governing Law. In purchasing a Scratch Ticket, the player agrees to comply with, and abide by, these Game Procedures for Scratch Ticket Game No. 2246, the State Lottery Act (Texas Government Code, Chapter 466), applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401, and all final decisions of the Executive Director.

TRD-202001975  
Bob Biard  
General Counsel  
Texas Lottery Commission  
Filed: May 19, 2020

◆ ◆ ◆  
**Panhandle Regional Planning Commission**

**Legal Notice**

Beginning in May, 2020, the Panhandle Regional Planning Commission (PRPC) seeks to develop a list of training providers who may be solicited on an "as needed" basis to develop and conduct safety-related training for program participants being served through the Workforce Solutions office located in Amarillo, and throughout the 26-county area. The purpose of this solicitation is to gather information from area providers sufficient to identify their offerings and willingness to provide those services to meet the requirements of inclusion on a PRPC Training Provider List.

To qualify for inclusion on the list, providers should be a secondary or post-secondary educational institution; licensed career school or college; proprietary school; or other public, private non-profit, and private for-profit entity capable of developing and providing safety-related training required by PRPC. In addition, providers must document any special accreditation, licensing, or other credentials that might be legally required to provide the services listed in their information.

A copy of the RFI (Request for Information) is available from Leslie Hardin, Training Coordinator, Workforce Development Division, at (806) 372-3381 / (800) 477-4562 or lhardin@theprpc.org.

TRD-202001968  
Leslie Hardin  
WFD Contracts Coordinator  
Panhandle Regional Planning Commission  
Filed: May 18, 2020

◆ ◆ ◆  
**Public Utility Commission of Texas**

**Notice of Joint Application to Revise Eligible Telecommunications Carrier Service Areas**

Notice is given to the public of a joint application filed with the Public Utility Commission of Texas (PUC) on May 1, 2020, to revise the eligible telecommunications carrier (ETC) service areas of AMG Technology Investment Group, LLC d/b/a NextLink Internet, and Plains Internet, LLC.

Docket Title: Joint Application of Plains Internet, LLC and AMG Technology Investment Group, LLC d/b/a NextLink Internet to Revise Eligible Telecommunications Carrier Service Areas, Docket Number 50807.

On August 28, 2018, the Federal Communications Commission (FCC) issued a *Public Notice* announcing the results of the Connect America Fund (CAF) Phase II auction competitive bidding process. Under the *Public Notice*, Plains Internet and NextLink Internet were individually awarded census block service areas in Texas. On September 27, 2018 the companies individually filed applications with the PUC for certification as ETCs, which were approved by orders dated February 4 and 27, 2019. In the joint application filed on May 1, 2020, the companies seek approval from the PUC to exchange certain census block service areas that were awarded to the companies. The areas the companies seek to exchange are detailed in Exhibits 1 and 2 to the joint application.

Persons wishing to comment on the action sought should contact the commission by mail at P.O. Box 13326, Austin, Texas, 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477. A deadline to intervene will be set by the administrative law judge. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission through Relay Texas by dialing 7-1-1. All comments should reference Docket Number 50807.

TRD-202001980  
Theresa Walker  
Assistant Rules Coordinator  
Public Utility Commission of Texas  
Filed: May 19, 2020

◆ ◆ ◆  
**Workforce Solutions North Texas**

**Request for Proposal #2020-004 Program Monitoring Services**

Workforce Resource, Inc. dba **Workforce Solutions North Texas**, a 501(c)3 non-profit corporation, is issuing requests for proposals from qualified entities to perform program monitoring services for contracted Child Care, WIOA, TANF/Choices, SNAP and Alternative Funding programs.

RFP#2020-004 can be found at Board's website <https://ntxworksolutions.org/business/>

**Deadline for submission of proposal - June 19, 2020 by 4:00 p.m. CDT**

Refer to RFP for procurement schedule.

Procurement Contact: **Sharon Hulcy**

Workforce Solutions North Texas

1501 Midwestern Pkwy, Ste 101

Wichita Falls, Texas 76302

(940) 767-1432

Email Address: [NTXBoard@ntxworksolutions.org](mailto:NTXBoard@ntxworksolutions.org)

TRD-202001976  
Sharon Hulcy  
Contract Manager  
Workforce Solutions North Texas  
Filed: May 19, 2020

## How to Use the Texas Register

**Information Available:** The sections of the *Texas Register* represent various facets of state government. Documents contained within them include:

**Governor** - Appointments, executive orders, and proclamations.

**Attorney General** - summaries of requests for opinions, opinions, and open records decisions.

**Texas Ethics Commission** - summaries of requests for opinions and opinions.

**Emergency Rules** - sections adopted by state agencies on an emergency basis.

**Proposed Rules** - sections proposed for adoption.

**Withdrawn Rules** - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after the proposal publication date.

**Adopted Rules** - sections adopted following public comment period.

**Texas Department of Insurance Exempt Filings** - notices of actions taken by the Texas Department of Insurance pursuant to Chapter 5, Subchapter L of the Insurance Code.

**Review of Agency Rules** - notices of state agency rules review.

**Tables and Graphics** - graphic material from the proposed, emergency and adopted sections.

**Transferred Rules** - notice that the Legislature has transferred rules within the *Texas Administrative Code* from one state agency to another, or directed the Secretary of State to remove the rules of an abolished agency.

**In Addition** - miscellaneous information required to be published by statute or provided as a public service.

Specific explanation on the contents of each section can be found on the beginning page of the section. The division also publishes cumulative quarterly and annual indexes to aid in researching material published.

**How to Cite:** Material published in the *Texas Register* is referenced by citing the volume in which the document appears, the words “TexReg” and the beginning page number on which that document was published. For example, a document published on page 2402 of Volume 43 (2018) is cited as follows: 43 TexReg 2402.

In order that readers may cite material more easily, page numbers are now written as citations. Example: on page 2 in the lower-left hand corner of the page, would be written “43 TexReg 2 issue date,” while on the opposite page, page 3, in the lower right-hand corner, would be written “issue date 43 TexReg 3.”

**How to Research:** The public is invited to research rules and information of interest between 8 a.m. and 5 p.m. weekdays at the *Texas Register* office, James Earl Rudder Building, 1019 Brazos, Austin. Material can be found using *Texas Register* indexes, the *Texas Administrative Code* section numbers, or TRD number.

Both the *Texas Register* and the *Texas Administrative Code* are available online at: <http://www.sos.state.tx.us>. The *Texas Register* is available in an .html version as well as a .pdf version through the internet. For website information, call the Texas Register at (512) 463-5561.

## Texas Administrative Code

The *Texas Administrative Code (TAC)* is the compilation of all final state agency rules published in the *Texas Register*. Following its effective date, a rule is entered into the *Texas Administrative Code*. Emergency rules, which may be adopted by an agency on an interim basis, are not codified within the TAC.

The TAC volumes are arranged into Titles and Parts (using Arabic numerals). The Titles are broad subject categories into which the agencies are grouped as a matter of convenience. Each Part represents an individual state agency.

The complete TAC is available through the Secretary of State’s website at <http://www.sos.state.tx.us/tac>.

The Titles of the TAC, and their respective Title numbers are:

1. Administration
4. Agriculture
7. Banking and Securities
10. Community Development
13. Cultural Resources
16. Economic Regulation
19. Education
22. Examining Boards
25. Health Services
26. Health and Human Services
28. Insurance
30. Environmental Quality
31. Natural Resources and Conservation
34. Public Finance
37. Public Safety and Corrections
40. Social Services and Assistance
43. Transportation

**How to Cite:** Under the TAC scheme, each section is designated by a TAC number. For example in the citation 1 TAC §27.15: 1 indicates the title under which the agency appears in the *Texas Administrative Code*; TAC stands for the *Texas Administrative Code*; §27.15 is the section number of the rule (27 indicates that the section is under Chapter 27 of Title 1; 15 represents the individual section within the chapter).

**How to Update:** To find out if a rule has changed since the publication of the current supplement to the *Texas Administrative Code*, please look at the *Index of Rules*.

The *Index of Rules* is published cumulatively in the blue-cover quarterly indexes to the *Texas Register*.

If a rule has changed during the time period covered by the table, the rule’s TAC number will be printed with the *Texas Register* page number and a notation indicating the type of filing (emergency, proposed, withdrawn, or adopted) as shown in the following example.

### TITLE 1. ADMINISTRATION

#### Part 4. Office of the Secretary of State

#### Chapter 91. Texas Register

1 TAC §91.1.....950 (P)

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